

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X
4 UNITED STATES OF AMERICA, : 08 CR 76
5 :
6 -against- :
7 United States Courthouse
8 CHARLES CARNEGLIA, : Brooklyn, New York
9 :
10 Defendant. : February 4, 2009
11 : 9:30 o'clock a.m.
12 - - - - - X

12 TRANSCRIPT OF TRIAL
13 BEFORE THE HONORABLE JACK B. WEINSTEIN
14 UNITED STATES SENIOR JUDGE, and a jury.

15 APPEARANCES:

16 For the Government: BENTON J. CAMPBELL
17 United States Attorney
18 BY: ROGER A. BURLINGAME
19 EVAN NORRIS
20 MARISA M. SEIFAN
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4 Proceedings recorded by mechanical stenography, transcript
5 produced by computer-aided transcription.
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10 (The following occurred in the absence of the jury.)

11 THE COURT: Where is the defendant?

12 (The defendant is present.)

13 THE COURT: The defendant is here.

14 Okay. Court Exhibit 1, letter of Ms. Sharkey dated
15 February 3rd.

16 (So marked.)

17 It is with respect to photographs of Gelb.

18 Let me see the photographs you plan to submit.

19 MR. BURLINGAME: The --

20 MS. SEIFAN: Are you talking about the plaque?

21 MR. BURLINGAME: Judge, we actually just spoke about
22 that. We are not putting in the plaque for the plaque's sake.
23 It's the -- it corroborates some evidence that's going to come
24 in later in the case. We just talked and we would agree to
25 hear the motion later when it becomes -- we are not going to

1 introduce those photos for weeks.

2 THE COURT: Preliminarily, I am ruling that the only
3 photograph of Gelb that can come in is
4 a pallid -- p a l l i d -- photograph.

5 MS. SHARKEY: I'm sorry? A p-a?

6 THE COURT: P A L L I D.

7 MS. SHARKEY: Okay.

8 MS. SEIFAN: Your Honor, we do have a board of
9 photos that relate to Gelb that we are seeking to introduce
10 tomorrow.

11 THE COURT: The scene I will allow. None of
12 those -- what number is that?

13 MS. SEIFAN: What exhibit number? It is Exhibit 6.

14 THE COURT: Exhibit 6 is just an ordinary murder
15 scene.

16 MS. SEIFAN: Okay.

17 THE COURT: It doesn't seem to be inflammatory.

18 MS. SHARKEY: Respectfully, I'm sorry, Ms. Seifan.
19 The -- the photo on the bottom, the Court's bottom right-hand
20 corner, depicting Mr. Gelb's head facing the Court, we would
21 request that that photo be redacted.

22 MS. SEIFAN: Your Honor, there is nothing
23 inflammatory about this photo.

24 THE COURT: Denied.

25 MS. SEIFAN: Thank you.

1 THE COURT: Court Exhibit 2, proposed redactions in
2 the corporation agreement.

3 They seem to be reasonable to me.

4 MS. SHARKEY: May I? Judge, I downloaded that this
5 morning. What I just would like an opportunity to do is to
6 read it.

7 (So marked.)

8 And then confer with the government on it. I am not
9 prepared to argue that but I will be able to go over it on the
10 lunch break and would ask to revisit that before it becomes an
11 exhibit.

12 THE COURT: You can revisit it. But my preliminary
13 ruling is, the redactions are appropriate.

14 MR. BURLINGAME: Thank you, Judge.

15 We will redact the future cooperation agreements
16 along these lines.

17 THE COURT: All right.

18 Court Exhibit 3, government's letter of February 4th.

19 MS. SHARKEY: February 4th?

20 THE COURT: Concerning the murder of Joseph
21 Delgado-Rivera and Michael Cotillo.

22 (So marked.)

23 MS. SHARKEY: We haven't seen that yet.

24 THE LAW CLERK: It came in this morning.

25 MR. BURLINGAME: We filed it about 8:30 this

1 morning.

2 THE COURT: Do you need it this morning?

3 MR. BURLINGAME: It is relevant to this morning.

4 Maybe we can give the defense an opportunity.

5 MR. NORRIS: We emailed it at 8:30.

6 THE COURT: All right. The defendant will have to
7 look at it.

8 This is for Zuccaro?

9 MR. NORRIS: Yes.

10 MS. SHARKEY: May I just have one minute, Your
11 Honor?

12 THE COURT: You may.

13 (Pause.)

14 Court Exhibit number 4 is a February 3rd letter of
15 the Department of Justice, statements of Gelb.

16 (So marked.)

17 MS. SHARKEY: I'm sorry? Judge, I'm sorry. I was
18 reviewing the letter. You are now referencing the threats?

19 THE COURT: Yes.

20 MS. SHARKEY: Defense response?

21 THE COURT: Let's do Exhibit 3 first. You wanted to
22 look at it.

23 MS. SHARKEY: Okay.

24 MR. FARBER: Yes, please.

25 MS. SHARKEY: Thank you, Judge.

1 (Pause.)

2 MS. SHARKEY: Judge, we need a clarification.

3 THE COURT: I can't hear you.

4 MS. SHARKEY: We need -- CW-1 is referring to?

5 MR. NORRIS: Referring to McMahon.

6 THE COURT: Speak up, please. Don't talk to each
7 other. Talk to the Court, so the reporter can get it down.

8 MS. SHARKEY: Judge, we had asked for an
9 identification of who CW-1 in this fact pattern was. CW-1 in
10 other fact patterns had been a different cooperating witness.
11 In this one, it is Mr. McMahon. So we just had to clarify
12 that.

13 THE COURT: We are now talking about Court Exhibit 3
14 of 2/4/09.

15 (Pause.)

16 MS. SHARKEY: Respectfully, Judge, we would ask that
17 CW-2 is referencing? On page three?

18 MR. NORRIS: I'm sorry.

19 MS. SHARKEY: CW-2 is referencing?

20 MR. NORRIS: John Alite.

21 (Pause continues.)

22 MS. SHARKEY: Judge, respectfully, I think that as
23 the Court did in other filings, this needs to be unpacked
24 somewhat on a purported statement by statement basis. As an
25 overall matter, it is the defense's position that the

1 government seeks to bring out through the witness currently
2 testifying on the stand, Mr. Zuccaro, multiple layers of
3 hearsay. Certainly not what this all addresses. As I said,
4 we didn't receive this before walking in this morning, so --
5 this is a once over lightly response.

6 The government seeks to bring in hearsay that is two
7 and three, it looks like four levels deep through this
8 witness. The government certainly has other cooperating
9 witnesses that they have noticed, that they intend to have
10 direct purported admissions from.

11 As the Court ruled during the testimony of prior
12 cooperating witness, Michael DiLeonardo, this appears to be
13 without the proper foundation.

14 Even if the Court found that these witnesses were
15 able to identify to some degree the location and time where
16 these purported statements were made, we would say that they
17 are too attenuated, that in fact there is no indicia of
18 reliability and, under 403, the Court should preclude their
19 introduction, especially, especially given that the government
20 has purported direct admissions from other cooperating
21 witnesses.

22 THE COURT: I am going to allow in all of the
23 statements under the Delgado-Rivera felony murder on page two
24 and page three of the Court Exhibit 3 of 2/4/09.

25 They relate to an incident in which Zuccaro dropped

1 out, but he was arguably still a member of the conspiracy to
2 rob the armored truck at JFK and was susceptible of
3 prosecution for that. Therefore, information about how the
4 robbery ultimately went down after he allegedly left the
5 conspiracy was of critical importance to him in protecting
6 himself.

7 MS. SHARKEY: Your Honor, the --

8 THE COURT: Particularly since --

9 MS. SHARKEY: Sorry.

10 THE COURT: -- there was fear that one of the people
11 involved in the statements was, quote, a rat, putting both the
12 defendant and Zuccaro in jeopardy. It is related to the
13 cooperating witnesses who will testify about the murder, and
14 CW-2 is expected to testify about admissions of the defendant
15 about the murder, all of which paints an integrated picture of
16 the workings of the conspiracy in connection with the robbery
17 and therefore come in.

18 What about Cotillo?

19 MS. SHARKEY: Judge, before you move on to the
20 Cotillo incident, on page -- on paragraph three of page two of
21 the government's letter, my understanding is that you ruled
22 that that information is also admissible. I would just like
23 the Court to reconsider that. There appears to be a less
24 reliable grounding of that information.

25 THE COURT: That's the DNA evidence?

1 MS. SHARKEY: I haven't gotten to the DNA evidence.
2 My once over lightly, I didn't even -- DNA, the last
3 paragraph.

4 THE COURT: Paragraph three on page three relates to
5 the DNA.

6 MS. SHARKEY: Right.

7 THE COURT: MDNA.

8 MS. SHARKEY: Right.

9 THE COURT: Is that what you are referring to?

10 MS. SHARKEY: No, Judge.

11 I am referring to that "years later." I will get to
12 the DNA.

13 On page two, paragraph three, the government seeks
14 to have Mr. Zuccaro testify to a conversation that occurred
15 years later. That doesn't appear to be an exception, quite
16 frankly, under 802. This doesn't appear to be in furtherance
17 on any level.

18 THE COURT: It certainly, during the course of the
19 conspiracy, when continuing cover-ups and the possibility of
20 quote, ratting, unquote, was a matter of concern -- what's the
21 government's view on this?

22 MR. NORRIS: That's exactly right, Judge. The --
23 the time of these conversations is approximately a decade
24 after the felony murder, the cooperating witness that Zuccaro
25 was speaking with was still in the defendant's crew. That

1 cooperating witness and the defendant had been arrested. The
2 defendant accused that cooperator of possibly being a rat. So
3 it made him concerned. That would have implicated, if he was
4 a rat, would put him in legal jeopardy, both Zuccaro and the
5 defendant and all the other members of the crew. Critical
6 importance.

7 THE COURT: It comes in.

8 What is next?

9 Did you want to refer the M --

10 MS. SHARKEY: I do.

11 THE COURT: I don't want an argument on that.
12 That's not coming in today.

13 MS. SHARKEY: Thank you.

14 THE COURT: I have ruled on it already.

15 On the Cotillo murder, what do you have to say?

16 MR. BURLINGAME: Sorry, Judge. I just missed that.
17 What was it you ruled on already?

18 THE COURT: I thought the MDNA was already
19 discussed.

20 MR. BURLINGAME: No. We haven't had any ruling on
21 that.

22 THE COURT: We haven't had a final ruling on it?

23 MR. BURLINGAME: No. I think the Court's
24 preliminary ruling was that the MDNA evidence was properly
25 admissible.

1 THE COURT: That's correct. I thought that was
2 my --

3 MR. BURLINGAME: Yes. Sorry. I thought you said
4 the opposite.

5 THE COURT: No. I don't want an argument at this
6 point. It's not coming in today.

7 MR. BURLINGAME: Correct. That's weeks away.
8 (Pause.)

9 MS. SHARKEY: With respect to the Michael Cotillo
10 murder, referencing paragraph two under that subsection, and
11 paragraph three, which appears at the top of page four of the
12 government's motion, we are going to renew our objection, Your
13 Honor, as to -- well, actually, I will be more specific in
14 regards to the eliciting of this testimony.

15 Mr. Zuccaro, or the government seeks to have
16 Mr. Zuccaro testify to conversations with individuals,
17 purported conversations, we would say, with individuals who
18 the government does not have lined up later on down the road
19 that would give some level, if you were to credit any of their
20 testimony, a level of an indicia of reliability.

21 These particular conversations are with individuals
22 that the government has identified through previous witnesses
23 of head shots, but are not present or not provided by the
24 government to testify in this matter. They don't have the
25 same purported reenforcement value that I think the Court is,

1 or that the Court utilized in allowing Zuccaro's testimony
2 about the JFK murder.

3 I mean, this can fall more under the -- I don't know
4 if this is specifically correct, and if we had received this
5 last night, we certainly would have responded in writing to
6 it, but more of the chatter. I mean, at the top of page four,
7 the government indicates that it seeks to introduce a
8 conversation that Zuccaro had with a friend. This is more of
9 a gossipy sort of characterization of what the witnesses, the
10 testifying witness' basis of knowledge is.

11 We are going to ask that any conversations relating
12 to those paragraphs be precluded as not properly admitted
13 under Rule 802 and, if the Court doesn't agree with that
14 rationale, then to keep it out under Rule 403 ruling. Rule
15 403 balancing test. Forgive me.

16 THE COURT: I am going to allow everything in the
17 government seeks to offer under the Michael Cotillo murder.
18 The defendant's deep involvement in the various elements of
19 evidence that are described on page three and page four are
20 revealed by the fact that the defendant's brother called for a
21 sit-down in order to protect the defendant himself and there
22 had to be a ruling by Aniello Dellacroce, that the defendant
23 would not be touched. So all of this was critical to the
24 operation of the conspiracy in order to show the discipline
25 and the relationship of the defendant to other conspirators.

1 Similarly, the first paragraph on page four, there
2 is a deep feeling, again, of, quote, ratting, unquote. The
3 defendant put at least one person in fear that he would be
4 killed because he was believed to be cooperating with the
5 police. Mr. Brown's fears had to be alleviated.

6 This is not idle chatter. It is central to the
7 operation of a conspiracy of this kind and it is given
8 considerable weight when considered in connection with the
9 recording in which the defendant purportedly admits to the
10 stabbing in a conversation with Gene Gotti, a captain.

11 So all of that comes in.

12 MS. SHARKEY: Your Honor, I would ask for a
13 clarification on paragraph four? When the government has
14 designated the particular witnesses, I think, perhaps I am
15 wrong, that in different letters the cooperating witness
16 numbers have changed a little bit. I am just confused.

17 I want to make sure CW-1 is McMahon. CW-2 is Alite.
18 CW-3 you are referencing?

19 MR. NORRIS: Robert Engel.

20 MS. SHARKEY: Thank you.

21 And CW-4?

22 MR. NORRIS: Anthony Ruggiano.

23 THE COURT: Thank you.

24 Now, with respect to Court Exhibit 4, the government
25 letter of February 3rd.

1 I believe I have stated, but if I haven't, I will
2 tell you now, based upon the information I have, I find that
3 the defendant killed Gelb -- this is for admissibility
4 purposes only -- and that he killed him in order to prevent
5 him from testifying in the then forthcoming trial and in any
6 trial and in any proceeding in the future, and that this
7 present proceeding is a proceeding in the category of those
8 possible future proceedings which the defendant had in mind
9 when he killed Gelb.

10 I will hear you on whether any of this comes in.

11 For clarification purposes, that finding of mine I
12 think gets us over the hurdle of Gelb's out-of-court
13 statements.

14 Are his out-of-court statements going to be
15 testified to by someone who heard him say that?

16 MR. BURLINGAME: Who heard Gelb say that?

17 THE COURT: Yes.

18 MR. BURLINGAME: Yes.

19 THE COURT: All right. So that's not a second level
20 of hearsay.

21 MR. BURLINGAME: No.

22 THE COURT: I don't want this person to testify that
23 Gelb said he was in fear because the fact that he was in fear
24 doesn't necessarily mean that there was a cause of the fear.

25 MR. BURLINGAME: Judge --

1 THE COURT: But he may testify that he received
2 threats, either from the defendant or from somebody who has
3 been proven to be an associate through the mob or through his
4 own crew, the defendant's own crew, or related crew or the
5 administration that made the threat. Because I find that
6 given the nature of the conspiracy and the relationships, that
7 any threat made by a person in that category, member of the
8 mob, associated with the mob, concerned about the defendant's
9 welfare, would have as part of the conspiracy and as part of
10 his duties under the conspiracy, tried to protect the
11 defendant in order to protect the conspiracy.

12 That is true whether the defendant instructed the
13 person to make the threat or whether the person made the
14 threat on his own volition, because that was, I find, the duty
15 and the custom to make such a threat in order to protect a
16 respected and critical member of the mob, namely, this
17 defendant.

18 MS. SHARKEY: May I have one moment, Judge?

19 MR. BURLINGAME: Judge, if I might? I -- I would
20 just like to argue that I think the -- the defendant's
21 statements that he was taking the threats seriously -- I am
22 not going to ask the witness to testify about that he was
23 terrified and weeping and blah blah. But the fact that --
24 there was an extreme level of threats going on here. The fact
25 that he was concerned goes to the fact that these threats were

1 real and were really affecting his life.

2 I understand --

3 THE COURT: I am not going to let it in. I
4 understand there is a forceful argument you could make. But
5 it is too attenuated as a matter of 401 admissibility and I am
6 keeping it out under 403 rules, his concern.

7 The threats I will allow in for the reasons that I
8 have stated.

9 I will hear from the defendant.

10 That's my tentative ruling.

11 MS. SHARKEY: Okay. My understanding, and I would
12 like to be able to answer this fully, is that that testimony
13 will be elicited through Ms. Fantauzzi, who was the waitress
14 in the diner? Not the waitress. I'm sorry. The companion.

15 MR. BURLINGAME: That's one of the witnesses.

16 MS. SHARKEY: In the diner. I would request that
17 the government identify the other witness.

18 THE COURT: Yes. All right. Identify.

19 MS. SEIFAN: Gerald Beyrer.

20 MS. SHARKEY: Anyone else?

21 MS. SEIFAN: No.

22 MR. BURLINGAME: At the moment, no.

23 MS. SHARKEY: Respectfully, Judge, the defense
24 disagrees with the Court's ruling. This has come up in other
25 trials, when the defendant's brother was charged with this

1 murder. The same issue came up and the judge in that matter
2 in fact kept the evidence of threats out of the record and the
3 Court found in that instance that --

4 THE COURT: This Court? You mean, the other judge?

5 MS. SHARKEY: The other judge, respectfully. Thank
6 you.

7 The Court -- the judge found that the government did
8 not make an appropriate or a sufficient offer of proof
9 concerning -- as to the probative value. In fact, the Court
10 engaged in an 807 analysis.

11 Am I right?

12 Now 807, then 804(b)(5). The threats are not more
13 probative than other evidence the government has to show of --
14 of the defendant's appreciation that the testimony would be
15 damaging to him.

16 The prosecution has sought to avoid that barrier by
17 seeking to admit this under section 804(b), subsection six,
18 forfeiture by wrongdoing.

19 The argument I am quoting from, Judge, appears in
20 the paragraph at the top of our moving papers on page two. I
21 know that the Court for legal purposes only or for
22 admissibility purposes only has found that the first prong of
23 804(b)(6)(2) -- 804(b)(6) has been satisfied, but I don't
24 think at this juncture the Court should allow the evidence of
25 threats in. I don't think that's correct.

1 I think an analysis under a brother Court's
2 review --

3 THE COURT: Who was the judge?

4 MR. FARBER: Judge Nickerson, Your Honor.

5 I have a copy of the decision.

6 THE COURT: All right. I think Judge Nickerson was
7 a great judge, but I disagree with him on this point, if this
8 was the point he was making. I don't know the full details of
9 his case.

10 MR. BURLINGAME: Judge, just to clarify.

11 MS. SHARKEY: If I might finish?

12 It was the same murder. It was the same application
13 by the government.

14 Respectfully, Your Honor, I mean, the Court engaged
15 also in a 403 analysis in that matter.

16 THE COURT: I have the deepest respect for
17 Nickerson, the former Judge Nickerson. He was one of the
18 great judges of our times. His sense of what was appropriate
19 in trials was impeccable. But each trial is somewhat
20 different.

21 That was the brother. This defendant is directly
22 implicated as the killer.

23 Correct?

24 MR. BURLINGAME: Correct, Judge.

25 MR. FARBER: Judge, I would point out that the

1 brother was directly implicated in that trial.

2 THE COURT: I understand.

3 I am not following Judge Nickerson on this despite
4 my deep respect and affection for him.

5 MS. SHARKEY: Judge, may I ask? I am going to go
6 off a point for one second.

7 I am going to ask you to reconsider your ruling,
8 that the defense is precluded from referencing or bringing up
9 any other information that other defendants were specifically
10 charged for these crimes in the past.

11 THE COURT: I don't see what that has to do with
12 this issue, that the government made a mistake or that the
13 jury didn't agree on another accusation. It doesn't bear on
14 this case.

15 All right. Let's proceed.

16 Bring in the jury.

17 MS. SHARKEY: Your Honor --

18 THE COURT: I'm sorry.

19 MS. SHARKEY: No. I just want to make sure that the
20 other issues that are outstanding from any filings from last
21 night that the defense has an opportunity to review the
22 redacted --

23 THE COURT: You do.

24 MS. SHARKEY: -- before it goes in.

25 THE COURT: I am finding preliminarily the

1 redactions are appropriate. I will hear you on any further
2 redactions.

3 MS. SHARKEY: Okay.

4 And similarly, the defense filed a motion to keep
5 out the photo of the plaque.

6 THE COURT: That's granted preliminarily. I see no
7 reason to put that in. But if a reason should occur later, I
8 will reconsider.

9 MR. BURLINGAME: We will just ask that the Court
10 keeps its mind open. There will be testimony that brings it
11 in not for the sake of introducing the plaque but as
12 corroborative evidence.

13 THE COURT: All right. I am keeping it out on
14 Rule 403 grounds.

15 Bring in the jury.

16 Where is the witness?

17 Get the witness in here first and then the jury.

18 MR. BURLINGAME: He is on his way, Judge.

19 (Witness is present.)

20 THE COURT: All right. Bring in the jury, please.

21 THE LAW CLERK: The jury is not ready yet, Judge.

22 THE COURT: All right. As soon as they are ready,
23 bring them in.

24 (Pause.)

25 THE COURT: One of the jurors was slightly delayed,

1 which is why we are waiting. But the juror is in the building
2 and on the way up.

3 The witness is still under oath.

4 (Jury present.)

5 (The witness is Peter Zuccaro.)

6 THE COURT: Good morning, everybody.

7 Be seated, please.

8 Proceed, please.

9 EXAMINATION CONTINUES

10 BY MR. NORRIS:

11 Q Sir, you testified yesterday that you were released from
12 prison for robbing armored trucks in 1988, is that correct?

13 A Yes.

14 Q After you got released, did you ever plan to do it again?

15 A Yes.

16 Q When?

17 A Whenever the opportunity arose.

18 Q When was the first time?

19 A Sometime in the late 1989, 1990.

20 Q How did the idea first come to you?

21 A Kevin McMahon brought it to me.

22 Q The defendant's associate?

23 A Yes.

24 Q What did he tell you?

25 A He told me he had a score and if I wanted to look at it.

1 Q What's a score?

2 A A score is a robbery or some place you could make big
3 money.

4 Q Did he tell you what the score entailed?

5 A No.

6 He told me to come with him, to see his future
7 brother-in-law in Howard Beach and they were going to run it
8 by me.

9 Q Did he tell you what the score -- what the robbery was
10 supposed to be of?

11 A Yes.

12 Q What?

13 A An armored truck.

14 Q Did he tell you what the expected contents of the truck
15 were?

16 A Yes.

17 Q What?

18 A Three-and-a-half million in gold blocks and some loose
19 money.

20 Q Now, around this time did you and Kevin McMahon regularly
21 commit crimes together?

22 A We stole cars together, yes. We did some crimes
23 together.

24 Q A lot of crimes?

25 A Yes. We stole a lot of cars together. We -- you know.

1 Q This is the most serious crime that you had?

2 A Yes.

3 Q Fair to say?

4 A Yes.

5 Q You testified yesterday that Kevin McMahon was in the
6 Carneglia's crew since he was a young boy.

7 Do you recall that?

8 A Yes.

9 Q Do you know how he ended up with the Carneglias at such
10 an early age?

11 A Yes.

12 MS. SHARKEY: Objection.

13 A Yes.

14 THE COURT: I will allow it.

15 Q How do you know?

16 A From Kevin.

17 Q What did he tell you?

18 A He told me while I was away in jail -- I didn't know
19 Kevin until I came home -- that his mother and father passed
20 away. Him and his sister moved in with his grandmother up the
21 block from John's house.

22 Q John Carneglia?

23 A Yes.

24 He met John's older son Chris. Chris brought him
25 home and he was there ever since, like an adopted son.

1 Q Explain to the jury what Kevin McMahon was like?

2 A What he was like?

3 Q Yes.

4 What was his personality?

5 MS. SHARKEY: Objection.

6 THE COURT: Overruled.

7 Q You may answer.

8 A He -- he was like a lot of people that want to aspire to
9 be involved with organized crime. He was compulsive. He had
10 a lot of -- a lot of balls. He was pretty smart in certain
11 situations. And he was a good thief.

12 Q Is it possible for him to become a member of organized
13 crime?

14 A No.

15 Q Did you have an understanding as to why not?

16 A He was a hundred percent Irish.

17 Q You liked Kevin McMahon?

18 A Did I like him?

19 Q Yes.

20 A At times I did; at times I -- I didn't like him.

21 Q Why didn't you like him at times?

22 A He started a lot of shit.

23 MR. FARBER: Objection, Your Honor.

24 THE COURT: I will allow it.

25 Q Explain what you mean.

1 A He started a lot of problems all the time. Not
2 listening. He was too gung ho, not watching things the right
3 way, not doing things the right way, too compulsive. He
4 started a lot of problems between Charles and myself. He just
5 ran his mouth constantly.

6 Sometimes I liked him; sometimes I didn't like him.

7 Q Did you have an understanding as to why Kevin McMahon
8 came to you on the armored truck score?

9 A Because he knew I would get the -- the situation done.

10 Q Do you know where Kevin McMahon first got the idea to do
11 the robbery?

12 A Where he first got the idea?

13 Q Where he first got the idea.

14 A From his future brother-in-law Michael Finnerty, to my
15 knowledge.

16 Q I show you what's been marked for identification as
17 Government Exhibit 2-CCCC?

18 A Michael Finnerty.

19 Q Do you recognize that?

20 Michael Finnerty?

21 A Yes.

22 Q What's the highest rank in the Gambino Family he
23 obtained?

24 A Associate.

25 MR. NORRIS: We offer it, two quadruple C.

1 THE COURT: Two quadruple C? C as in cat?

2 MR. NORRIS: Yes, Your Honor.

3 THE COURT: I have that as Edward Lino.

4 Quadruple, I'm sorry. Finnerty, you are right.

5 Admitted.

6 (So marked.)

7 EXAMINATION CONTINUES

8 BY MR. NORRIS:

9 Q You said Michael Finnerty was Kevin McMahon's future
10 brother-in-law?

11 A Yes.

12 Q What did you and Kevin do after Kevin came to you about
13 the robbery?

14 A We went and met with Michael Finnerty, called him out of
15 his house. Michael Finnerty went across the street from his
16 house, got the kid that worked in the American Airlines
17 service hanger in Kennedy Airport. I told him I didn't want
18 to meet the kid that had the score. Michael talked to the
19 kid. And then Michael come and told me everything about it.

20 Q Where did you go next?

21 A We went up the block to the park and spoke about what the
22 contents and how to put a plan together to do the armored
23 truck robbery.

24 Q You and Kevin McMahon and Michael Finnerty?

25 A Yes.

1 Q What did you discuss in the park exactly?

2 A We discussed on getting together and going to look at the
3 armored truck on that -- on that Thursday.

4 Q What time of day?

5 A Early, early in the morning, like 4:30 in the morning,
6 5:00 o'clock in the morning, 4:00 o'clock in the morning.

7 Q Did you discuss why it would be a good idea to go at that
8 time?

9 A I wanted to get there earlier than the truck arrived so I
10 could see what the traffic situation was in the airport,
11 police presence, employee movement in and out of the building,
12 get a feel for what's going on in the area.

13 Q Why Thursday?

14 A Because that's the day the truck used to come.

15 Q Where exactly was it that the truck -- that Finnerty said
16 the truck would arrive?

17 A American Airlines, the hanger, service hanger.

18 Q At JFK?

19 A JFK Airport.

20 Q Did Finnerty say where the armored truck would go after
21 JFK?

22 A Once in a while it would stop at a check cashing place on
23 Farmers Boulevard, right outside Kennedy Airport. And then it
24 would proceed up to LaGuardia Airport. From there it would go
25 up to Rhode Island. (Continued on next page.)

1 CONTINUED DIRECT EXAMINATION

2 BY MR. NORRIS:

3 Q After the conversation in the park, did you agree to go
4 and conduct surveillance the following Thursday?

5 A Yes.

6 Q What happened that Thursday morning?

7 A I went and checked the locations, surveilled it.

8 Q With who?

9 A Kevin McMahon, Michael Finnerty and Charles.

10 Q The defendant?

11 A Yes.

12 Q Where did you meet that morning?

13 A Kevin's house.

14 Q Where is that?

15 A In Lindenwood, Queens.

16 Q Did you all go to American Airline's hangar together?

17 A Yes.

18 Q Whose car?

19 A I think we took two cars that day, Kevin's Jeep and
20 Charles had a car, or we all might have went the first time in
21 Charles' car.

22 Q What happened when you arrived at the hangar?

23 A We went into the parking lot with the key that opens the
24 electronic arm that let's you into the parking lot, drove
25 around the parking lot to check out if anybody was in cars or

1 what the employee movement was in the parking lot, if anybody
2 was sitting in their cars, anybody was moving in and out of
3 the building and for a spot where I could park, watch what was
4 going on.

5 Q Explain where the parking lot was relative to the hangar?

6 A The parking lot pretty much in the front surrounded the
7 building. Off to the right as you're driving in, there's a
8 parking lot to the right and then right in front of the
9 building there's another parking area.

10 Q Which parking area did you and the others park the car?

11 A We parked directly in front of the building looking into
12 the main entrance of the building.

13 Q What happened next?

14 A The armored truck came. They pulled up to the front of
15 the building and I was watching to see if anybody came out to
16 meet them, what they did, how they exited the truck and how
17 long they took inside the building, how many guards were in
18 the truck.

19 Q What did you observe?

20 A Everything I just said.

21 Q How many guards were in the truck?

22 A I think there was three guards in that truck.

23 Q Any employees come out to meet them?

24 A Yes, somebody came out the front door and met with them.

25 Q Did the truck idle or did they turn it off?

1 A No, the truck stood running.

2 Q Were you able to see inside the building?

3 A Yes.

4 Q What did you see there?

5 A I seen employee movement inside the building, the guard
6 walking in and out.

7 Q The truck that remained running, did the driver stay in
8 the truck or get out?

9 A Just one guard exited the truck.

10 Q Do you recall what time it was that the truck pulled up?

11 A It was early in the morning, maybe 20 minutes after we
12 got there.

13 Q Approximately what time?

14 A Maybe 4:30.

15 Q Still dark?

16 A Still dark out.

17 Q What happened after you observed what you needed to see?

18 A We left the parking lot, drove around that area a little
19 bit to see what was going on with the traffic in the airport,
20 police presence, Port Authority.

21 Q What happened after that?

22 A We followed the truck to the next stop.

23 Q Which was where?

24 A It was LaGuardia Airport straight up.

25 Q What happened when you got to LaGuardia Airport?

1 A I watched exactly what they did. I pulled over in the
2 gas station there and watched exactly what they done.

3 Q Where did they pull in at LaGuardia Airport?

4 A They pulled right up front in front of the American
5 Airlines building.

6 Q What did they do when they got there?

7 A They left the truck idling. One guard exited, went
8 inside, dropped the payroll money off, came out about five
9 minutes later and they proceeded out of there.

10 Q When you were back at JFK, did you see them taking any
11 money inside?

12 A Payroll money.

13 Q Where did you go after LaGuardia?

14 A That trip we let them just leave. I had to go to work on
15 construction that morning, couldn't be late.

16 Q You testified before Michael Finnerty said sometimes the
17 truck would also go to a check cashing place?

18 A Yes.

19 Q On that first visit did you observe the truck go to the
20 check cashing place as well?

21 A Didn't go to the check cashing place, I don't think, on
22 the first one, but I did observe it going to the check cashing
23 place.

24 Q Which direction did the armor truck go when it left
25 LaGuardia?

1 A Went north -- no, wait. It went -- made a left off 94th
2 Street, went down to the Van Wyck Expressway to get back on
3 the Van Wyck because alongside the expressway is the Grand
4 Central Parkway, not open to commercial traffic.

5 Q As you're at LaGuardia Airport watching the truck, what
6 specifically are you looking out from your perspective? What
7 do you need to see there?

8 A I'm trying to put together a plan where I could do this
9 robbery of three and a half million dollars in gold bullion,
10 blocks, is a lot of weight. You have to have time to unload
11 the truck. You have to have a vehicle that's heavy enough to
12 carry the gold away and you have to be good about what you're
13 doing.

14 Q What was the defendant doing that morning while the four
15 of you were driving around in the car?

16 A He was observing like I was observing.

17 Q What was Michael Finnerty doing?

18 A Everybody was doing the same thing, observing.

19 Q Kevin McMahon doing anything else in addition to
20 observing?

21 A He might have filmed.

22 Q Did you ever listen to anything?

23 A Scanners, just the instruments we brought with us, the
24 scanner.

25 Q You brought scanners with you?

1 A Yes.

2 Q For what reason?

3 A To learn about police presence, what was going on in the
4 Port Authority and what crimes, if anything was coming over
5 the air that early in the morning where there's going to be a
6 lot of police presence around.

7 Q Explain to the jury what a scanner is.

8 A A scanner intercepts radio frequency and what talk is
9 going on between the frequencies you punch in there. You
10 could punch in air traffic control. You could put in police
11 department, fire department, ambulance. It just picks up
12 what's spoken about over the airways.

13 Q Did there come a time that you cased the armored truck
14 again?

15 A Cased it a lot of times, almost every Thursday after
16 that.

17 Q Was it always the four of you that went?

18 A Yes.

19 Q Michael Finnerty continued to be involved?

20 A No.

21 Q When did he stop being involved?

22 A When he seen that Kevin was too impulsive, rushing. He
23 didn't like the rift that was going on between me and Kevin.
24 Kevin was becoming very uncontrollable. He wanted just to run
25 up there and do it when you couldn't do that.

1 Q Did you ever go alone to conduct surveillance?

2 A Yes.

3 Q Did you ever go with anyone else -- after Michael
4 Finnerty left, were there subsequent surveillances done with
5 Kevin McMahon and the defendant?

6 A Yes.

7 Q Did you ever go with anyone else aside from those two
8 people?

9 A Michael Finnerty.

10 Q After Michael Finnerty dropped out?

11 A Other people could have come and looked at it with us,
12 too, yeah.

13 Q Do you recall specifically?

14 A Franky Lap, maybe.

15 Q Who is Franky Lap?

16 A Franky Lapitino.

17 Q What's his affiliation?

18 A He's an associate of the Gambino family.

19 Q You mentioned earlier that the armored truck also had
20 routes outside of New York City; is that right?

21 A Yes.

22 Q Rhode Island and Connecticut?

23 A It drove up to Rhode Island through Connecticut.

24 Q Did you ever follow it to those locations?

25 A Yes.

1 Q You testified yesterday that you were a frequent user of
2 drugs; is that right?

3 A Yes.

4 Q During these surveillances, during these mornings when
5 you're casing the armored truck, were you ever high?

6 A No.

7 Q Ever drunk?

8 A No, absolutely not.

9 Q Did you form an opinion as what the best place was to do
10 the robbery?

11 A Yes.

12 Q What?

13 A LaGuardia Airport.

14 Q Why did you think that was the best place to do the
15 robbery?

16 A Because all you would have to do is drive right out of
17 the airport with the truck, drive over the Grand Central
18 Parkway up to around Ditmars, make a left, come down behind
19 the hotels, the back of the hotels that lined it. It was a
20 bunch of cul de sacs with houses on them, pull the truck in
21 the cul-de-sac, have a nice heavy duty van waiting and unload
22 the contents of the truck into the van.

23 Q What about the check cashing place, did you ever consider
24 that location?

25 A Yeah, it was a good location if you could have took the

1 guy that opened the store in the morning, forced your way in,
2 waited for them to come in there.

3 Q You thought LaGuardia was better?

4 A I thought so, yes, a lot of presence of police at Kennedy
5 Airport.

6 Q Did Kevin McMahon agree with you that LaGuardia Airport
7 was the best place?

8 A Kevin McMahon wanted to get it done. He didn't care
9 where it got done.

10 Q What about the defendant?

11 A The defendant was pretty much going with what I wanted to
12 do, but Kevin was always throwing "Let's do it, let's do it,
13 let's do it, let's get it done."

14 Q Did there come a time where you had what you thought was
15 going to be a final surveillance in anticipation of doing the
16 robbery?

17 A Yes.

18 Q Explain to the jury what happened that morning.

19 A We went up with two cars, a station wagon, and I was
20 driving around in a separate car, Charles and Kevin were
21 driving around in another car. There was a lot of police
22 presence in the area that day. They pulled over on a side
23 street to LaGuardia Airport.

24 Q Who is they?

25 A Kevin McMahon and Charles while I was still driving

1 around the neighborhood. I had a walkie-talkie. Kevin had a
2 scanner and a walkie-talkie. There was a lot of police
3 presence around for some reason. I couldn't find out why
4 because I didn't have the scanner.

5 Q You're communicating with Kevin McMahon over the
6 walkie-talkies?

7 A For a while, yeah, just really trying to stay off the
8 airways just in case somebody else was listening, not
9 constantly talk on the walkie-talkie, you know?

10 Q What happened?

11 A They were parked on a block that the police drove down.

12 Q Again, who?

13 A Charles and Kevin.

14 Q That's the defendant, Charles?

15 A Yes.

16 Q What happened?

17 A The police came down the block and Charles shut the car
18 off. Kevin got very angry and upset he shut the car off.

19 Q Why?

20 A Because if something went wrong they would have to start
21 the car to get away.

22 Q What happened next?

23 A We met after the police left the block. They came and
24 met with us. When Charles got out of the car, he was drunk.

25 Q What was your reaction when you found out Charles, the

1 defendant, was drunk?

2 A I didn't want nothing to do with it anymore.

3 Q With what?

4 A With the plan, with the robbery, with anything to do with
5 that.

6 Q Why not?

7 A Because I don't operate like that.

8 Q Where did you go next?

9 A I left. I went to work.

10 Q What was in your mind at that point?

11 A I'm out. I don't want nothing to do with it. I'm done
12 with that; go on to greener pastures. I don't dwell on the
13 past. I just do what I got to do for the future.

14 Q What time of year was this?

15 A I think it was maybe late fall/early winter.

16 Q Was this before or after the defendant told you that he
17 killed Louie DiBono?

18 A This was after.

19 Q What happened next that you recall?

20 A I seen a news flash on the TV that a guard was killed at
21 Kennedy Airport, an armored truck heist in front of the
22 American Airlines building.

23 Q Where were you when you heard the news?

24 A It was either in my mother's house or somebody else's
25 house.

1 Q What was your reaction on seeing the news?

2 A I wasn't happy. I was kind of upset, sick about it.

3 Q Why?

4 A Because somebody got killed over a robbery.

5 Q Did you think who did it?

6 A It wasn't the right way.

7 MR. SHARKEY: Objection as to form, do you think.

8 THE COURT: I'll allow it. Are you finished?

9 MR. SHARKEY: Yes.

10 THE COURT: I'll allow it. Let him finish his
11 answer. You could finish your answer.

12 A What was the question again?

13 MR. NORRIS: If you could read back the previous
14 answer?

15 (Read back.)

16 Q I'll ask you again so the record is clear, when you saw
17 the report on the television, what was your reaction?

18 A I was upset and sick about it. I didn't like the outcome
19 of the situation. I don't do things like that. I don't
20 operate like that.

21 Q Did you think you knew who did it?

22 A Yes.

23 Q After that, did you ever have a discussion with anyone
24 who participated in the robbery?

25 A Yes.

1 Q That's the same robbery conspiracy you had been in for a
2 period of time?

3 A Yes.

4 Q About how long had lapsed from the first time you and the
5 defendant, Kevin McMahon, Michael Finnerty followed the
6 armored truck to the last time you dropped out?

7 A Oh, months.

8 Q How long after seeing the news did the conversation that
9 you had take place?

10 A When I bumped into Kevin in Howard Beach. It could have
11 been a couple of days, a week or two weeks later, ten days.

12 Q Kevin McMahon was still a member of the defendant's crew
13 at that point?

14 A Yes.

15 Q How long was the conversation?

16 A Not long, you know. Kevin was scared, upset, nervous.

17 Q Where exactly were you when you talked to him?

18 A Old Howard Beach.

19 Q Remember the street?

20 A Either 95th or 96th Street.

21 Q Were you with anyone else?

22 A I think I was dropping a girl off. I'm not absolutely
23 sure, or going to meet a girl or doing something in the
24 neighborhood there.

25 Q Was anyone else in the conversation with you and Kevin

1 McMahon?

2 A No, absolutely not.

3 Q How did you come to see Kevin McMahon that day?

4 A We were both driving around the neighborhood.

5 Q You saw each other?

6 A Yeah, pulled over. We got out of our cars. We started
7 talking about what happened.

8 Q Where were you standing when you were talking?

9 A On the sidewalk.

10 Q How did you react when Kevin McMahon showed up?

11 A I knew what he was up to. I knew Kevin's MO. He's a
12 questioner. Kevin is a question/information seeker.

13 Q How were you feeling at that time?

14 A I was disgusted.

15 Q Again, how did Kevin appear to you when you first started
16 talking to him?

17 A Kevin was nervous about me knowing and he was seeking to
18 find out if I spoke to anybody about it or who else knew about
19 this score. He was volunteering information to what happened.

20 Q What did he tell you?

21 MR. SHARKEY: Objection as to foundation.

22 THE COURT: I'll allow it.

23 Q What did he tell you?

24 A He told me him, Charles and Bobby Borriello went to do
25 the score and they killed the guy.

1 Q That's the same Bobby Borriello that the defendant told
2 you he killed Louie DiBono with?

3 A Yes.

4 Q Same Gambino soldier?

5 A Yes.

6 Q Did Kevin McMahon tell you who shot the guard?

7 A He tried to accuse Bobby Borriello of it.

8 Q Did he say why the guard had been shot?

9 A The guy got out of the truck with his pistol in his hand,
10 probably reacted when they went to take the bag from him.

11 Q Is that what Kevin told you?

12 A Yes.

13 Q You testified -- withdrawn.

14 You testified that Kevin told you that he, the
15 defendant and Bobby Borriello did the robbery and killed the
16 guard; is that right?

17 A Yes.

18 Q Did he tell you any other details about what happened?

19 A That it was 60 something thousand dollars in the bag.

20 Q That they got?

21 A Yeah, and he was just going after that bag.

22 Q You testified that your understanding was that Kevin
23 McMahon was nervous, among other things, that you might --
24 withdrawn.

25 You testified that your understanding was that Kevin

1 McMahon was trying to find out if you had told anyone else
2 what happened; is that right?

3 A Yes.

4 Q Did you have an understanding who he thought you might
5 have told?

6 A No, probably people in the street, people that associated
7 with me, my friends, maybe people in the crew, people that
8 were higher up over Charles.

9 Q You testified that the guard was innocent; is that right?

10 MR. SHARKEY: Objection.

11 THE COURT: I'll allow it.

12 A Yes.

13 Q You told this jury about other murders, fair to say?

14 A Yes.

15 Q What made this different?

16 A That was --

17 MR. SHARKEY: Objection.

18 THE COURT: I'll allow it.

19 A The guy was a working stiff. He wouldn't have gave any
20 kind -- if you got the drop on the guy the right way, he
21 wouldn't stop you from robbing him. He would do what he had
22 to do, the FBI would handle it after that. That's what
23 they're trained to do, not trained to get into gun battles in
24 the street.

25 Q You said what they're trained to do, what do you mean by

1 "they"?

2 A The guards on the armored truck.

3 Q What did you say when Kevin McMahon told you he and the
4 defendant and Bobby Borriello killed the guard?

5 A I didn't want to hear about it. I'm not -- you know, I
6 don't want to know about this. This has got nothing to do
7 with me, something that I really don't want to carry around,
8 you know, him thinking now I know we had this conversation,
9 he's going to go back and tell Charles we had the
10 conversation, Bobby Borriello, you know. I knew what he was
11 doing. He was seeking information from me. He was too
12 nervous to go about it the right way instead of coming out and
13 asking me "Did you tell anybody about the situation? No."

14 Q As time went on, did you ever have another conversation
15 with Kevin McMahon about the killing of the armored car guard?

16 A Yes.

17 Q When was that?

18 A After he was arrested on a case involving extortion in
19 Long Island.

20 Q Approximately what year was that?

21 A It was either '99 or 2000.

22 Q Do you recall where you had this conversation with him?

23 A Up the block from his house in Howard Beach.

24 Q How did you come to see him that day?

25 A I think he was just buying a house there or he was

1 looking at houses in the neighborhood. I don't know what he
2 was doing, but I was driving around. I bumped into him.

3 Q Were you still in the defendant's crew at this time?

4 A No.

5 Q Was Kevin McMahon still in the defendant's crew?

6 A Yes.

7 Q Were they still close?

8 A Well, after the conversation I had, I don't think they
9 were too close any longer.

10 Q You know what a rat is?

11 A A rat is somebody that's cooperating with the
12 authorities, with the FBI, with the state police, with the
13 city police department.

14 Q Did Kevin McMahon tell you whether anyone thought he was
15 a rat?

16 MR. FARBER: Objection.

17 THE COURT: I'll allow it.

18 A Yes.

19 Q Who?

20 A Charles.

21 Q Is it important for members and associates of organized
22 crime to know who is cooperating with the government?

23 A Yes, very important.

24 Q Is it especially important for members of the same crew
25 to know who is cooperating?

1 A Yes.

2 Q Why is it important?

3 A Because one cooperator could ruin the whole crew, could
4 ruin everything.

5 Q On the street did you have an understanding with people
6 in organized crime about cooperating with the government?

7 A It's a death sentence.

8 Q In organized crime do people casually accuse other people
9 of being a rat?

10 A No. When I grew up, you accuse somebody of being a rat,
11 you had to have a basis for it. You had to have proof, and if
12 you were wrong, you could get yourself really jammed up heavy.
13 You could either be killed or disciplined in a heavy duty way.

14 Q How did the subject of the killing of the armored car
15 guard at JFK arise that day when you ran into Kevin McMahon?

16 A Well, Kevin was very aggravated, very upset that he was
17 being called a rat. He said "I know all these things about
18 this guy, I know about the armored truck guard, Louie DiBono,
19 know about other things with Charles, things I was involved
20 with, and this guy is going around calling me a rat and making
21 people in the neighborhood think I'm a rat. If I was a rat,
22 he wouldn't be here right now. He would be apprehended and in
23 jail."

24 Q Did Kevin in fact tell you he was cooperating at that
25 time?

1 A He was not cooperating.

2 Q What did you say when he told you -- what did you say
3 in response to what he told you?

4 A I told him the best thing you could do is get away, stay
5 away and mind your business. Go do your time, come home, get
6 your wife and kids and move on, get away from this because
7 it's dead-end.

8 Q Did you ever talk about the killing of the armored truck
9 guard again with anyone else who was close to the defendant?

10 A No.

11 Q Never had a conversation with anyone else?

12 A Oh, Johnny Alite. Yes, I did.

13 Q Johnny Alite, is that the person who asked you to lead
14 the team that killed -- withdrawn.

15 John Alite, is that the person who asked you to kill
16 John Gebert in 1997?

17 A Yes.

18 Q When did this conversation occur?

19 A I was at Alite's girlfriend's house.

20 Q Where?

21 A Old Howard Beach.

22 Q What's his girlfriend's name?

23 A Claudia.

24 Q Who else was there?

25 A Mike Malone and Patsy Andriano, Junior.

1 Q Were they with you?

2 A They were playing with the kids out front, or the dogs.
3 They were, you know, all together there, but they weren't with
4 me and Alite at the moment that that was said.

5 Q Where were you and Alite when you were talking with him?

6 A Me and Alite were sitting in the house when Kevin pulled
7 up.

8 Q To your knowledge had John Alite ever commit any crimes
9 with Kevin McMahon to that point?

10 A Did something with a funeral parlor or something, did
11 something together.

12 Q You weren't involved?

13 A No.

14 Q Did the subject of the armored truck guard killing come
15 up again in the context of cooperation?

16 A Yes.

17 Q How did the conversation arise?

18 A John was basically aggravated that Kevin was pulling up
19 to his house He that he's a questioner; that he's always
20 seeking information and this kid has got a lot of potential
21 for being no good, you know, just didn't trust Kevin at the
22 time.

23 Q Did he say whether he thought he was a rat?

24 A Yes.

25 Q What did he say?

1 A He said this kid could possibly be a rat.

2 Q Did he say anything about the defendant?

3 A Yes.

4 Q What did he say?

5 A He said Charles might think he's a rat, you know.

6 Q Did he say anything else about the defendant?

7 A "I just don't like him being around me. I don't want him
8 here. I don't know why he pulled up here."

9 Q Did he tell you anything about why the defendant would be
10 concerned Kevin McMahon was a rat?

11 MR. SHARKEY: Objection as to form.

12 THE COURT: I'll allow it.

13 Q You may answer.

14 A Because of the severity of the armored truck robbery,
15 what went wrong, other things the kid knew about.

16 Q You testified yesterday that the defendant told you he
17 stabbed Sal Puma in the chest; do you recall that?

18 A Yes.

19 Q Did you ever have any other conversations with anyone
20 else in the defendant's crew about any other stabbings?

21 A Yes.

22 Q Which member of the defendant's crew did you have those
23 additional conversations?

24 A Andrew Curro.

25 Q That's the defendant's right-hand man you told the jury

1 about yesterday?

2 A Yeah, at the time.

3 Q When did those conversations take place?

4 A Sometime in the mid to late '70s.

5 Q Before or after the defendant told you that Albert Gelb
6 had been killed?

7 A After.

8 Q Where did the stabbing take place?

9 A In front of Blue Fountain Diner.

10 Q Where is that?

11 A Cross Bay Boulevard and Howard Beach.

12 Q Did the conversations you had with Curro involve a
13 sit-down that was called to address the stabbing?

14 MR. SHARKEY: Objection as to leading.

15 THE COURT: Overruled.

16 Q You may answer.

17 A Yes, it did.

18 Q Did the conversation pertain directly to the status of
19 the defendant in the Gambino family?

20 A Yes.

21 Q Was it important for you and Andrew to know what the
22 defendant's status was in the Gambino family?

23 A Yes.

24 Q Why?

25 A It wasn't really important for me. It was important for

1 Andrew, but Charles was still my friend and I didn't want to
2 see nothing go wrong or happen to him.

3 Q But you and Andrew -- were you committing crimes with
4 the defendant at that time?

5 A Yes.

6 Q Did the conversation take place a day or two after the
7 stabbing?

8 A Yes.

9 Q Did you have a conversation with Curro before the
10 sit-down took place?

11 A Yes.

12 Q Did you have another conversation with Curro after the
13 sit-down took place?

14 A Yes.

15 Q How much time passed between the stabbing and the sit-
16 down?

17 A I think it was a day or two. It was right away. It was
18 as quick as they could get the people together.

19 Q You testified yesterday that the defendant at this time
20 was in John Gotti's crew, the Bergen crew; is that right?

21 A Yes.

22 Q That's called the Bergen crew because John Gotti's club
23 was the Bergen Hunt and Fish Club, correct?

24 A Yes.

25 Q Did you know the person who was killed?

1 A No.

2 Q Did you and Curro discuss the fact that he was related to
3 someone else?

4 A He was Lenny DeMaria's nephew.

5 Q Is this Lenny DiMaria you identified yesterday?

6 A Yes.

7 Q What was his position in the Gambino family at that time?

8 A He was a soldier.

9 Q What did he later rise to become?

10 A Captain.

11 THE COURT: Would you give us that number, please?

12 MR. NORRIS: Showing the witness Government

13 Exhibit 2-K.

14 Q Was Lenny DeMaria part of John Gotti's crew?

15 A No.

16 Q Whose crew was he in?

17 A He was in Nicky Corozzo, Fat Andy, Tony Lee, JoJo
18 Corozzo, that crew, that tip of the family.

19 Q That's a different faction of the family, fair to say?

20 A Yes.

21 Q You testified yesterday that the relationship between
22 that faction and Gotti's faction was not good?

23 A Not at the time, no.

24 Q I'm showing you what's in evidence as Government
25 Exhibit 2-LLL. Who is that?

1 A Fat Andy Ruggiano.

2 Q What's his first name?

3 A Andy.

4 Q The highest status he obtained in the Gambino family?

5 A Captain.

6 Q Who was he partners with?

7 A Tony Lee.

8 Q Did someone from John Gotti's crew call for the sit-down?

9 A Yes.

10 Q Who?

11 A John Carneglia.

12 Q Why?

13 A Because --

14 MR. SHARKEY: Objection as to why.

15 THE COURT: I'll allow it.

16 Q You may answer.

17 A Because Nicky and Lenny wanted Chunk. They wanted
18 retaliation for what took place with Charles and his nephew.

19 Q Did Andrew Curro tell you why they wanted to retaliate
20 against the defendant?

21 A Because his nephew was stabbed in front of the diner and
22 later died.

23 Q What was your reaction to learning the defendant stabbed
24 the kid in front of the Blue Fountain Diner?

25 A My reaction?

1 Q Yes.

2 A I had no reaction. That was, you know, something that
3 happened. I mean I wasn't happy about it, but the kid got
4 into an altercation. He got killed.

5 Q Did Andrew Curro tell you who participated in the
6 sit-down?

7 A Yes.

8 Q Who participated for Nicky and Lenny?

9 A Nicky, Lenny, and I guess either Andy or Tony Lee.

10 Q Were Nicky and Lenny able to sit down for themselves?

11 A Yes, they could have sat down for themselves.

12 Q Why?

13 A Because they were soldiers. They were made members in
14 the crew.

15 Q Nicky and Lenny, what was their relationship like?

16 A They were partners.

17 Q Sort of --

18 A Childhood friends since babies.

19 Q Like Fat Andy and Tony Lee?

20 A Fat Andy, Tony Lee and John and Genie and the rest of the
21 Bergen crew, close, tight.

22 Q Who sat for the defendant?

23 A Angelo Ruggiero, John Gotti and Gene Gotti.

24 Q Angelo Ruggerio, Quack Quack, later rose to become
25 captain?

1 A Yes.

2 Q What was their status in the family?

3 A Soldiers.

4 Q John Gotti, what was his status?

5 A Acting captain.

6 Q John Gotti and Gene Gotti and Angelo Ruggerio all members
7 of the Bergen crew, right?

8 A Yes.

9 Q Did someone mediate the sit-down?

10 A Yes.

11 Q Who?

12 A The underboss.

13 Q What was his name?

14 A Aniello Dellacroce.

15 Q What was the outcome of the sit-down?

16 A It was squashed. They were told to leave Charles alone
17 and that was that.

18 Q Lenny and Nicky couldn't retaliate against him?

19 A No, they couldn't.

20 Q Lenny couldn't avenge the killing of his nephew?

21 A No, he couldn't.

22 MR. FARBER: Objection.

23 THE COURT: Overruled.

24 When you reach an appropriate time, we'll break.

25 MR. NORRIS: I have about five minutes in this

1 section, break now?

2 THE COURT: Let's take a break.

3 (Jury leaves courtroom.)

4 (Recess.)

5 (Witness enters courtroom.)

6 (Continues on next page.)

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1 (jury present.)

2 THE COURT: Come in, please. Be seated.

3 Proceed.

4 MR. NORRIS: Yes, your Honor.

5 BY MR. NORRIS:

6 Q Mr. Zuccaro, before we broke, you testified that Andrew
7 Curro told you that the defendant stabbed Lenny DiMaria's
8 nephew in front of Blue Fountain Diner in the late seventies,
9 correct?

10 A Yes.

11 Q And the defendant's brother called for a sit-down out of
12 fear that the opposite faction of the family would retaliate
13 against the defendant for doing it, correct?

14 A Yes.

15 Q And the underboss of the family, Aniello Dellacroce, he
16 squashed it, he said the defendant couldn't be retaliated
17 against, correct?

18 A Yes.

19 Q Did you ever hear about the sit-down from anyone else in
20 the Bergin crew?

21 MS. SHARKEY: Objection.

22 THE COURT: I will allow it.

23 A Yes.

24 Q Who?

25 A John Gurino.

1 Q Who was John Gurino at the time?

2 A JJ Gurino was an associate of Gene Gotti's, an associate
3 of the Gambino family.

4 Q Were you close with him?

5 A Yes.

6 Q Throughout his whole life?

7 A Yes.

8 Q What did you discuss with JJ?

9 MS. SHARKEY: Objection.

10 THE COURT: Overruled.

11 Q You may proceed.

12 A What took place in front of the diner with the stabbing,
13 and the concern for Phil Brown being there and witnessing the
14 stabbing go down and the retaliation that was going to be
15 sought after Phil seen what happened and maybe they'd
16 retaliate and do something to Phil Brown for seeing what he
17 saw in fear that he might cooperate with the authorities.

18 Q What was Phil Brown's relationship with JJ Gurino?

19 A Very close friend.

20 Q Was he one of his associates?

21 A Yes.

22 Q Where was the defendant at the time these discussions
23 about the sit-down were going on?

24 A He was on the lam.

25 Q Do you know where he went?

1 A No.

2 Q Do you know how long he was on the lam?

3 A He was on the lam for a couple of days, a week, maybe
4 two. But he laid low after that.

5 Q In addition to having a conversation with JJ about Phil
6 Brown, did you ever have a direct conversation with Phil and
7 JJ yourself?

8 A Yes.

9 Q Where did that conversation take place?

10 A In front of Phil's house.

11 Q Where was Phil's house?

12 A 83rd Street in Howard Beach.

13 Q Night or day?

14 A It was late afternoon, like sunset.

15 Q Before or after the sit-down?

16 A After.

17 Q How did the conversation arise?

18 A Like I said before, there was concern for Phil's safety,
19 that they were going to retaliate and do something to him.

20 Q How did Phil Brown appear to you?

21 MR. FARBER: Objection.

22 THE COURT: I will allow it.

23 A He was very nervous.

24 Q Did he tell you what happened at the diner?

25 A Yes.

1 Q What did he tell you?

2 MS. SHARKEY: Objection.

3 THE COURT: Overruled.

4 Q You may answer.

5 A He had told me that a big fight broke out between two
6 factions of people at the diner, one of the factions might
7 have been altogether Nicky and Lenny's crew and another crew
8 of kids that was hanging out at the diner. A fight broke out.

9 Charles was driving down the Boulevard. Two kids
10 that were around Charles were involved in the fight. Charles
11 pulled over, he went to go get involved. A kid went to swing
12 at him, Georgie or Tom Tom tried to push the kid away. As
13 they were pushing him hey way, Charles stabbed the kid through
14 Georgie or Tom Tom's hand, stabbed him in the heart -- or in
15 the chest area.

16 Q In the heart?

17 A Yeah.

18 Q You don't know this kid's name; is that right?

19 A Not at all.

20 Q Yesterday I believe you testified that Tom Tom and
21 Georgie -- there's a name for them, is that right?

22 A Yes.

23 Q What was it?

24 A Charlie's Angels.

25 Q And is it your testimony that -- withdrawn. Do you

1 recall whether Phil said it was Tom Tom or Georgie's hand that
2 the knife went through that stabbed the kid?

3 A I seen one of them wounded. I forget which one it was,
4 but he told me and I seen the kid with his hand wounded. I
5 just forget who it was.

6 Q Showing you what has been marked for identification as
7 Government Exhibit 2 EEEE.

8 Do you recognize this photo?

9 A Yes.

10 Q Who is it?

11 A That is Georgie.

12 Q Do you know his last name?

13 A No.

14 Q What was the highest rank he obtained in the Gambino
15 family?

16 A He was an associate. When I came to jail he was an
17 associate of the family.

18 MR. NORRIS: We offer it.

19 THE COURT: Admitted.

20 (So marked.)

21 Q Did you ever have any subsequent conversations with JJ
22 about Phil Brown's concern?

23 A Yeah. JJ went to Gene Gotti and Angelo Ruggiero to make
24 sure that Phil Brown got a pass, that nobody was going to
25 retaliate and do anything to Phil Brown over what took place

1 in front of the diner and what he saw.

2 Q Did he get a pass?

3 A Yes.

4 Q Again, just to be clear to the jury, why did he need a
5 pass?

6 MS. SHARKEY: Objection.

7 THE COURT: I will allow it.

8 A Why did he need a pass?

9 Q Yes.

10 A He was a witness to a murder and he could have cooperated
11 with the authorities and caused Charles a lot of harm at the
12 time.

13 Q Now, you just testified about Fat Andy and Tony Lee's
14 crew; is that right?

15 A Yes.

16 Q And that was the crew that Lenny DiMaria and Nicky
17 Corozzo were in around the time of the stabbing at the Blue
18 Fountain Diner; correct?

19 A Yes.

20 Q And you testified that Nicky had a brother JoJo?

21 A Yes.

22 Q And JoJo later became a consigliere?

23 A Yes.

24 Q And Jo Jo was also part of that crew at the time;
25 correct?

1 A Yes.

2 Q Who else was in their crew?

3 A It was a bunch of kids from the neighborhood, Fat Andy's
4 two sons.

5 Q What were their names?

6 A Anthony and Albert. Sal Pecchio, Little Joe Daidone,
7 Herman.

8 Q Do you know Herman's last name?

9 A No.

10 Q Are you familiar with the name Robert Engel?

11 A Robert Engel was part of their crew. More Nicky and
12 Lenny.

13 Q What about someone named Carl Amato?

14 A Carl Amato was part of their crew.

15 Q Robert Engel, if he was with Nicky and Lenny, he was
16 still part of Fat Andy's crew?

17 A He hung out with Anthony, he hung out with those kids
18 too, year.

19 Q Robert Engel was with Nicky and Lenny, he therefore is in
20 Tony Lee's and Fat Andy's crew, correct?

21 A Yes.

22 Q The same way that Andrew was with the defendant and even
23 though the defendant at the time was an associate, he is in
24 John Gotti's crew; correct?

25 A Yes.

1 Q Even though he's also in the defendant's crew?

2 A Yes.

3 Q Showing you what is in evidence as Government Exhibit

4 2W. Who is that?

5 A Anthony Ruggiano.

6 Q And, again, who is he?

7 A That's Fat Andy's oldest son.

8 Q What is the highest position he obtained in the Gambino
9 family?

10 A When I was out in the street he was still an associate.

11 Q Showing you what is in evidence has Government Exhibit
12 2 KKK.

13 A That is Albert Ruggiano, Fat Andy's younger son.

14 Q What is the highest position he obtained in the Gambino
15 family?

16 A Associate.

17 Q That is Anthony's brother?

18 A Yes.

19 Q And showing you what is in evidence as Government
20 Exhibit 2L. Who is that?

21 A Robert Engel.

22 Q What is the highest position he obtained in the Gambino
23 family?

24 A He was an associate.

25 Q Showing you what is in evidence as Government Exhibit?

1 2 III. Who is that?

2 A Sal Pecchio.

3 Q What is the highest position he obtained in the Gambino
4 family?

5 A Associate. When I was in the street.

6 Q What was his relationship like with Anthony Ruggiano
7 Junior?

8 A Very close.

9 Q Showing you what is in evidence has Government Exhibit?

10 2 FF. Who is that?

11 A Carl Amato.

12 Q What is the highest position he obtained in the Gambino
13 family?

14 A When I was out in the street, associate.

15 Q What did he later become?

16 A I don't know. I was --

17 Q Yes?

18 A He was an associate when I was in the street.

19 Q All of these men we just went through, Anthony Ruggiano
20 Junior, Robert Engel, Albert Ruggiano, Sal Pecchio, Carl
21 Amato, they are all part of Lenny and Nicky's crew, Tony Lee
22 and Fat Andy's crew, correct?

23 A Yes.

24 Q What rank -- remind the jury what rank Nicky Corozzo and
25 Lenny DiMaria later attained.

1 A Captain.

2 Q Are you familiar with the defendant's feelings about the
3 Corozzos and about Lenny DiMaria?

4 A Yes.

5 Q How did you come to be familiar with his feelings?

6 MR. FARBER: Objection.

7 A There was always a rift between the two crews. It was a
8 well-known fact in the neighborhood, and that's the way it
9 was.

10 Q Did he ever tell you what he thought about the Corozzos
11 and Lenny DiMaria?

12 MS. SHARKEY: Objection.

13 THE COURT: I will allow it.

14 A He didn't get long with them. They didn't like him, he
15 didn't like them.

16 Q Do you have an understanding as to where the rift
17 originated?

18 A Well, the rift goes back a long time between John,
19 Angelo, JoJo, Nicky and Lenny, and Genie, them guys they
20 didn't see eye to eye, but then as problems and beefs between
21 the two crews kept going back and forth, it just got worse.
22 Then when the nephew was stabbed, it got even worse.

23 Q Everyone was still all in the same crime family, right?

24 A Yes.

25 Q You testified yesterday that you had a number of

1 conversations with Andrew Curro about the death of John
2 Gotti's son Frankie in an auto accident, do you recall that?

3 A Yes.

4 Q And the man whose car Frankie hit -- sorry, withdrawn.
5 The man whose car hit Frankie was John Gotti's neighbor, a man
6 by the name of John Favara; correct?

7 A Yes.

8 Q And you also testified that John Gotti wanted to
9 retaliate but was told not to by the underboss at the time,
10 the same Aniello Dellacroe, correct?

11 A Yes.

12 Q And John Gotti was an acting captain at the time?

13 A Yes.

14 Q Did you discuss with Andrew the reason why the underboss
15 denied Gotti permission to retaliate against John Favara?

16 MS. SHARKEY: Objection.

17 THE COURT: I will allow it.

18 A Because anybody could have been driving that car, a
19 soldier in the family, the underboss himself could have been
20 driving that car. It was an accident.

21 Q In your experience, do members of organized crime
22 sometimes seek permission when they want to kill somebody?

23 A Yes.

24 Q What are they supposed to do if they are denied
25 permission?

1 A They are denied, they are supposed to not do it.

2 Q What if you disobey orders, what can happen?

3 A You can get killed for it.

4 Q Did John Gotti disobey the underboss's orders?

5 A Yes, he did.

6 Q How?

7 A He went to Florida and had John Favara whacked out.

8 Q Was John Gotti killed as a punishment for disobeying
9 Aniello Dellacroce's orders?

10 A No, absolutely not.

11 Q Did he suffer any repercussions that you are aware of?

12 A Absolutely none.

13 Q Who was the boss of the family at the time that John
14 Favara was killed?

15 A I believe Paul just took over.

16 Q What was Paul's last name?

17 A Castellano.

18 Q Showing you what is in evidence has Government Exhibit?

19 2 MM. Who is that?

20 A Paul Castellano.

21 Q What is the highest rank he obtained?

22 A Boss.

23 Q How long was Paul Castellano the boss of the Gambino
24 crime family?

25 A He took the family over when his brother-in-law Carlo

1 Gambino passed away, all the way up until December of '85 when
2 they killed him in front of Sparks Steakhouse.

3 Q Did anyone tell you who killed him?

4 MS. SHARKEY: Objection.

5 THE COURT: I will allow it.

6 A It was a well-known fact in the family of who did it. It
7 was on the hush, but --

8 Q What was your understanding as to who was involved?

9 A The Bergin crew, yes.

10 MS. SHARKEY: Objection as to foundation.

11 THE COURT: Find out from whom, if you can, he
12 obtained that understanding.

13 Q Do you recall who specifically you might have gained that
14 understanding from?

15 A Fat Sonny Giupponi

16 Q Who is he?

17 A He was a soldier from the Bronx who was doing time with
18 me in Otisville, New York at the time.

19 Q From the Bronx in what family?

20 A Gambino.

21 Q Did he tell you who killed Castellano?

22 MS. SHARKEY: Objection. Foundation.

23 THE COURT: I will allow it.

24 A Yes.

25 Q Who did he tell you killed Castellano?

1 A John, Angelo, Genie, Johnny Carnig, Iggy Alonga, Tony
2 Roach, and Sal Scala, Vinny Artuso.

3 Q They are all members of the Bergin crew?

4 A Yes, Sammy the Bull, too.

5 Q Who became boss after that?

6 A John Gotti.

7 Q You testified before that one of the rules of organized
8 crime is that you never raise your hand to another made
9 member.

10 Do you recall that?

11 A Yes.

12 Q Did John Gotti and Gene Gotti and John Carneglia and
13 everyone else violate that rule when they murdered Paul
14 Castellano?

15 A Yes.

16 Q By organized crime rules should they have gotten killed
17 for what they did?

18 A Yes.

19 Q Did they get away with it?

20 A Semi.

21 Q Did they get killed?

22 A No, they didn't get killed. Frankie DeCicco got killed.

23 Q Showing you what is in evidence has Government Exhibit?

24 2 VV. Who is that?

25 A Carlo Gambino.

1 Q What was the highest position he attained in the Gambino
2 family?

3 A He was the boss.

4 Q Now, switching directions. Do you recall the date that
5 you got out of prison for the armored truck robberies?

6 A March 23rd, 1988.

7 Q What did you do when you got out?

8 A I went back to the neighborhood.

9 Q Tried to get on your feet?

10 A Tried to get on my feet. Was leery about what I was
11 hearing in prison about Carmine sending me death threats for
12 retaliation for doing what we did to him by his junk yard.

13 Q Carmine Agnello?

14 A Yes.

15 Q When you got out of prison were you on parole?

16 A Yes.

17 Q Did you have parole conditions?

18 A Yes, I did.

19 Q Did you break them?

20 A Every day.

21 Q What was your relationship like with your parole officer?

22 A Cordial.

23 Q Were you aware whether you were under surveillance while
24 you were on parole?

25 A I looked at it as I was under surveillance 24 hours a

1 day.

2 Q Did you take steps to evade the surveillance?

3 A All the time.

4 Q Did you lie to your parole officer?

5 A Every time I seen him.

6 Q Try to fool him?

7 A Every day.

8 Q Why?

9 MS. SHARKEY: Objection.

10 THE COURT: I will allow it.

11 A I was the criminal and he was the cop. You know, he's
12 looking to put me in jail and I'm looking to get on my feet
13 and stay out of jail without being detected.

14 Q Can you estimate how many times you lied to your parole
15 officer?

16 A I lied untold amounts. I lied to him every time I seen
17 the guy over a five-year period; three parole officers I had.

18 Q Were you permitted to meet with organized crime figures
19 under the conditions of your parole?

20 A No, I was not.

21 Q And did you meet with them anyway?

22 A Almost every day.

23 Q Who did you meet with first?

24 A When I first got out?

25 Q Yes?

1 A The first person I seen?

2 Q Yes.

3 A I went right to Carmine Agnello.

4 Q That is the person that you and the defendant and
5 everyone else slaughtered back in the late seventies?

6 A Yes.

7 Q Why did you go meet with him?

8 A I wanted to see what he had on his mind, if he wanted to
9 straighten out the problem that he thought we had.

10 Q Where did you go meet with him with?

11 A I went right to his junk yard.

12 Q What happened?

13 A He didn't recognize me.

14 Q What did you do?

15 A I walked up to him and asked him what he had on his mind
16 and what he wanted to do about it, and that it wasn't me that
17 ordered the beating, it was his father-in-law. So if he had
18 any beef, he had a beef with his father-in-law, he should go
19 straighten it out there first and then worry about coming to
20 me.

21 Q What did he say?

22 A That he had no problem with me. But that wasn't what I
23 was hearing while I was in prison.

24 Q Who did you go see next?

25 A I went and seen John Gotti Junior.

1 Q Did you discuss the Agnello situation with him?

2 A Yes.

3 Q What did he say?

4 A He would straighten it out.

5 Q Who is the next organized crime figure that you recall
6 going to see after that?

7 A John Carneglia.

8 Q Why did you go see him?

9 A Because I was on record with him. I was supposed to
10 report to him and I went there to let him know what took place
11 and what happened.

12 Q With what?

13 A Carmine Agnello.

14 Q Where did you go see John Carneglia?

15 A At his house.

16 Q What did you discuss?

17 A The situation with Carmine and the future, when I got on
18 my feet.

19 Q What did you discuss about the future, getting on your
20 feet?

21 A Getting on my feet, making money, getting a job to evade
22 the parole people and to ride under the radar so I wouldn't go
23 back to prison while I was on parole.

24 Q Did he ask you what you wanted to do?

25 A Yes.

1 Q What did you tell him?

2 A I wanted to get back into the marijuana business.

3 Q Why?

4 A It's very lucrative and the penalty was really nothing at
5 the time.

6 Q Did he say anything about Carmine Agnello?

7 A Yeah, he said not to worry about that, now the guy was
8 John Gotti's son-in-law and everybody else was either
9 straightened out or with John and they really had no problem.
10 The kid was focusing on me.

11 Q Did he say whether you had any prospects of getting
12 straightened out?

13 A We'll see what happens in the future.

14 Q Again, remind the jury, that means becoming made?

15 A Yes, becoming a soldier of the family.

16 Q What specifically did he tell you about getting into the
17 marijuana business when you told him that's what you wanted to
18 do?

19 A He was going to introduce me to someone.

20 Q Who?

21 A This guy Morty from Manhattan in the jewelry business.

22 Q Anyone else?

23 A Chickie.

24 Q Morty and Chickie?

25 A Yeah.

1 Q Do you know their last names?

2 A No, I do not.

3 Q Did you know Chickie at that point?

4 A I knew Chickie from Dashes on Fire Island in Long Island.
5 I knew who he was.

6 Q Did John Carneglia tell you why he wanted to set you up
7 with Morty and Chickie?

8 A They had a connection in Texas.

9 Q A connection for what?

10 A Marijuana.

11 Q Did he explain who the connection was with in Texas?

12 A The connection was with Morty and Chickie, mostly Morty.
13 It was Morty's workers and friends in the jewelry business.

14 Q Do you remember their names?

15 A Doug Ervig, Gary Compton, Darrell Smith.

16 Q What happened next?

17 A I met with Doug Ervig and Gary Compton.

18 Q That was the first thing that happened?

19 A I talked with Morty, I went to his apartment and --

20 Q Where?

21 A In Manhattan.

22 Q You got out of prison in March '88, right?

23 A Yes.

24 Q How long after you got out of prison would you say that
25 that meeting took place?

1 A I got out in March and maybe over the summer it took
2 place --

3 Q Who else was --

4 A -- in May, June.

5 Q Who else was at that meeting in Morty's apartment?

6 A Chickie and Doug Ervig.

7 Q Explain to the jury what you discussed.

8 A Bringing marijuana up to New York from Dallas, Texas.

9 Q What did you tell them that you could do?

10 A I could sell marijuana in New York, and if we got a
11 pipeline going, that we would do good, it would grow into a
12 lucrative business.

13 Q What happened next?

14 A I flew down to Texas.

15 Q Who did you go down there to meet?

16 A The connection, Darrell Smith.

17 Q Where did you go meet him?

18 A Dallas, Texas, Doug Ervig's apartment.

19 Q How did you get there?

20 A I flew.

21 Q What airline?

22 A Delta.

23 Q Describe Darrell Smith physically.

24 A Physically, he was about six-two, maybe 230 pounds, bald,
25 a beard and a mustache, light complexion fellow, weak chin and

1 very intelligent.

2 Q Showing you what has been marked for identification as
3 Government Exhibit 2 IIII.

4 Do you recognize this photograph?

5 A That's Darrell Smith with the wig we got him.

6 MR. NORRIS: I offer it.

7 THE COURT: Admitted.

8 (So marked.)

9 MS. SHARKEY: May we see that? Thank you.

10 Q This is the guy with no beard or mustache and hair on top
11 of his head, right?

12 A Yes.

13 Q You got him a wig later?

14 A Yes.

15 Q We'll get to that.

16 What did you and -- withdrawn. Was anyone else with
17 you when you went to see Darrell Smith?

18 A Yes.

19 Q Who else?

20 A Doug Ervig and Gary Compton.

21 Q What did you discuss?

22 A Smuggling marijuana back up to New York from Dallas,
23 Texas.

24 Q Did you discuss how you would do it?

25 A They were going to handle the transportation to begin

1 with.

2 Q What were you going to do?

3 A I was going to come down, pay for it and they were going
4 to ship it up.

5 Q How long did you stay down in Texas?

6 A The first time it was overnight. I flew back the next
7 day.

8 Q How were you going to pay for the marijuana?

9 A I borrowed money.

10 Q Who did you borrow money from?

11 A I borrowed 10,000 from Johnny Carneglia, 10,000 from
12 Frankie Lap, and I had 10,000.

13 Q 30,000 in total?

14 A Yes.

15 Q What happened after you got back to New York?

16 A I put the money together. I stayed in touch with the
17 guys in Texas. When they had a load, I put the money on me,
18 flew down to Texas, looked at what they had and tried to
19 organize a plan and a deal where I could pay for the marijuana
20 up front with the 30,000 and that they would give me 30,000
21 more on top of the 30,000 that they gave me to front me. I
22 would bring them the remaining money right back down as soon
23 as I sold it.

24 Q How much did you pay per pound?

25 A I think the first load \$700, 750, plus \$25 to their

1 driver to drive it up, a pound.

2 Q So what happened next?

3 A We brought a load up.

4 Q Who is "we," who brought it?

5 A They brought it and I met them.

6 Q How did they bring it in?

7 A They went around to garage sales in Texas, they bought
8 used furniture, rented a U-Haul truck, put the marijuana in
9 Saran Wrap and drier sheets and powder and pepper and lemon
10 and -- to disguise the scent; put it inside the furniture, put
11 the furniture in the U-Haul truck and drove it up to New York
12 and beeped me when they got there.

13 Q What happened when they got there?

14 A I brought the contents of the truck to a garage I had on
15 97th Avenue in Woodhaven.

16 Q What happened when you are brought the contents into the
17 garage?

18 A I took it apart.

19 Q What did you do with it?

20 A I took the marijuana out of the bales, put it in baby
21 pools and pounded it up.

22 Q What do you mean "pounded it up"?

23 A I put it in one pound bags.

24 Q What was the total size of the load?

25 A Maybe 80 pounds, a hundred pounds; a little less.

1 Q What did you do once you had pounded it into one pound
2 sections?

3 A I called the people I had waiting to flip it to them.

4 Q Did you ever test the marijuana to make sure it was good?

5 A Yes.

6 Q What did you do?

7 A I smoked it.

8 Q Did you find buyers?

9 A Yes.

10 Q How much did you make?

11 A We made about \$300 a pound, \$250 a pound.

12 Q Who is "we"?

13 A Me, John Carneglia.

14 Q What was John Carneglia's involvement?

15 A He just put the connection together and lent me the
16 10,000. I was with John. He was overseeing it.

17 Q He didn't do anything else?

18 A No.

19 Q You did all the work?

20 MR. FARBER: Objection.

21 THE COURT: I will allow it.

22 A I did the work.

23 Q And how did you split the profits up with John Carneglia?

24 A We waited till we built up a bankroll of about \$180,000
25 to \$200,000 so we'd have enough money to put down on loads so

1 we can get a large quantity up at one time and whatever we
2 would make profit over that we'd whack up.

3 Q What percentage?

4 A I would give him either 30 percent, 33 percent,
5 50 percent, it depended.

6 Q Depended on what?

7 A It depended on what we made.

8 Q And you found buyers?

9 A Yes.

10 Q And you made money?

11 A Yes.

12 Q What did you do after that first shipment?

13 A I let the money build up.

14 Q Where did you go once the money built up?

15 A I paid back the money that I borrowed.

16 Q How did you pay it back?

17 A In cash.

18 Q Where did you pay it back?

19 A At John's house, Frankie Lap's house, and I put my money
20 in my house.

21 Q And did you go back to Texas as well?

22 A Constantly.

23 Q What did you do when you went down there?

24 A I looked at marijuana loads.

25 Q Who did you meet with when you went down there?

1 A Doug Ervig, Darrell Smith, Gary Compton.

2 Q How would you bring the money down to Texas when you had
3 to pay them?

4 A In the beginning I would wear bicycle clothes under a
5 very, very large sweat suit, and I would line the bicycle
6 clothes with the money inside the bicycle clothes, shirts,
7 spandex, so it would stay tight to my body, and put a large
8 sweat suit over me so you couldn't tell I had anything bulky
9 on me.

10 Q What kind of sweat suit was it?

11 A Takini.

12 Q As time went on were there additional shipments?

13 A Yes.

14 Q And did the size of the shipments stay the same, about
15 80 pounds, or did it increase?

16 A No, it increased.

17 Q To what?

18 A A couple of hundred pounds, 250, depended on what they
19 came across with.

20 Q And at any point in time did you begin to have any
21 problems with Chickie?

22 A Yes.

23 Q Explain.

24 A I would go down to Texas to meet these people and take
25 care of business and Chickie would be in a hotel snorted out

1 of his mind high on cocaine bouncing off the walls.

2 Q Did you ever talk to Johnny Carneglia about that?

3 A Yes.

4 Q What did he say?

5 A He said do whatever you want. Chase him.

6 Q What did he mean by "chase him"?

7 A Get him out of the business.

8 Q Did you?

9 A Yes.

10 Q As time went on, your profits from each load, was it the
11 same, about \$300 a pound?

12 A It depended on the means of transportation or what was
13 entailed. But usually around \$300 a pound.

14 Q Did the marijuana keep coming up from Texas in a U-Haul
15 truck or did the transportation change?

16 A Yeah, Winnebago, U-Haul, camper.

17 Q What was happening in John Carneglia's life at this
18 point?

19 A He just got convicted of heroin trafficking.

20 Q And before he was convicted, did the defendant have any
21 involvement in the marijuana business?

22 A Before John was convicted? No.

23 Q Where was he at that time?

24 A He was still mainly on the run.

25 Q Even when he came back before John was convicted was he

1 involved?

2 A Yes.

3 Q When was the first time that he got involved?

4 A I don't remember exactly the first time, but he got
5 involved in between John getting convicted, us going out to
6 the Hamptons.

7 I was keeping him abreast of what was happening
8 because John was preparing himself to get sentenced and go
9 away to federal prison.

10 Q What did John tell you about what was going to happen
11 with the marijuana distribution operation when he went away to
12 prison?

13 A I was to report to Charles and keep him abreast and give
14 his end to Charles.

15 Q Before John went away to prison did you continue to whack
16 up money with him?

17 A Yes.

18 Q Typically how much money would you give him when you
19 visited him?

20 A Forty, 50,000 at a shot.

21 Q Can you estimate for the jury how many times you gave
22 him -- you paid 40 or \$50,000 to him from the marijuana?

23 A Three, 4 times.

24 Q And each of those times it was about 40 or \$50,000?

25 A Yes.

1 Q And each of those times if you gave John Carneglia 40 or
2 \$50,000, how much did you get?

3 A Equal amount.

4 Q It tended to be 50-50 actually, right?

5 A Yeah.

6 Q So a typical profit from a typical load is between 80 and
7 a hundred thousand dollars?

8 A Yes.

9 Q You testified yesterday that you began reporting directly
10 to the defendant in all matters when his brother went away to
11 prison; is that right?

12 A Yes.

13 Q And so at that point were you under the defendant with
14 respect to just the marijuana distribution or everything?

15 A No, I was with Charles once John went away.

16 Q What was your reaction to finding out that the defendant
17 was going to be in charge of you and your marijuana
18 distribution operation?

19 A I didn't mind, but I just wanted to make sure that I
20 could always be -- he could be available for me and we'd have
21 a good relationship.

22 Q After the defendant took over, did you arrange for
23 additional marijuana shipments to come from Texas?

24 A Yes.

25 Q Do you recall how large those shipments were?

1 A Two hundred fifty, 300 pounds, 200 pounds, 150 pounds, it
2 depended on what came through.

3 Q Do you recall whether you ever shared any profits from
4 any of those shipments directly with the defendant?

5 A Yes.

6 Q How many times?

7 A Twice.

8 Q Do you recall how much money you gave him?

9 A I think about 40 to \$60,000 a time anywhere between 40
10 and 60,000.

11 Q And both of those occasions you retained a similar
12 amount, correct?

13 A Yes.

14 Q After those two times was there another shipment after
15 that?

16 A Yes. Supposed to be.

17 Q Supposed to be. What happened?

18 A Yes. It was busted.

19 Q Explain.

20 A A shipment came through from Brownsville, Texas. The
21 trailer went to Houston, Texas, they put it in a garage
22 overnight. On its way from Brownsville to Houston, the driver
23 was pulled over, the Federal government had him, found the
24 marijuana in the trailer and convinced the guy to cooperate
25 with them.

1 Q Do you recall how large the size of that load was
2 supposed to be?

3 A No. But it was supposed to be a big one. That was
4 supposed to be the biggest load coming through to us.

5 Q How big, do you recall?

6 A Big, maybe 500 pounds, 600 pounds.

7 Q How did you find out what happened down in Texas?

8 A When I beeped him to find out what was happening, because
9 they already had the bankroll money and what was going on with
10 the load, Doug Ervig was real nervous. Darrell Smith didn't
11 get back to me and Gary Compton was very nervous.

12 Q Did there come a time that you went back down to Texas to
13 find out what happened?

14 A I flew right down there.

15 Q Who did you see?

16 A Doug Ervig and Gary Compton.

17 Q What did they tell you?

18 A They told me what happened.

19 Q Had they told that you over the phone?

20 A No.

21 Q They only told you when you got there in-person?

22 A Yes.

23 Q And did you see Darrell Smith when you went down to Texas
24 that time?

25 A Yeah. He was kind of apprehensive to come and meet me

1 but he came, yeah.

2 Q And what did he do when he met with you?

3 A He was very nervous. They knew who he was. They were
4 looking for him.

5 Q Who is "they"?

6 A The authorities, the federal authorities.

7 Q What did he do, did he show you anything?

8 A He showed me fear. He was scared to death.

9 Q Where did you meet with him?

10 A I met with him either in Dave and Buster's off the LBJ
11 Freeway or at Doug Ervig's apartment.

12 Q And what did you discuss when you met with him?

13 A Getting back on our feet.

14 Q Did you discuss the fact of the seizure?

15 A Yes.

16 Q And did he show you anything relating to the seizure?

17 A Newspaper articles.

18 Q Newspaper articles relating to the seizure?

19 A Yes.

20 Q Did you believe him that the marijuana had been seized in
21 fact?

22 A Yes. He had no reason to lie to me. He wasn't pulling
23 nothing fancy or -- he was a businessman. He wanted to keep
24 that going and he wanted to build it up and, you know, let it
25 run.

1 Q What did he do after you learned that the shipment had
2 been seized when you spoke with Darrell Smith?

3 A I went and seen Charles.

4 Q Back up in New York?

5 A Yes.

6 Q Where did you go see him?

7 A At the house.

8 Q Which house?

9 A His mother's house on 85th Street.

10 Q Did you bring anything with you?

11 A The newspaper articles.

12 Q How did he react when he learned that the marijuana had
13 been seized?

14 A He was upset. You know, he wanted to know when we're
15 going to get back on our feet, what's happening.

16 Q Do you recall how long after the seizure you ran into the
17 defendant, or you -- withdrawn.

18 Do you recall how long after the seizure took place
19 that you had this conversation with the defendant?

20 A Maybe a couple of days, a day or so, two days,
21 three days. Within that week.

22 Q And did you show him the newspaper articles?

23 A Yeah, when I came back from Texas.

24 Q What did he say in response to seeing them?

25 A He thought that anybody could make that up.

1 Q What did he tell you?

2 A He said, Do you trust these guys? You know, what's
3 happening? Are they robbing us? He was very concerned about
4 that.

5 Q What did you tell him?

6 A I told him I believed them and I knew some of the names
7 that were in the article, people that I wasn't dealing with
8 although I did meet these people, and their names were
9 mentioned in the article.

10 Q And what did the defendant tell you after you had that
11 discussion?

12 A Let's get this going again. Let's get back on our feet
13 with it.

14 Q Did he want --

15 A First he wanted me to go down there and kill them.

16 Q What did you say when he told you that?

17 A I told him that isn't a good idea. What are we going to
18 do here? You know.

19 Q You didn't go kill them. What did you do?

20 A No. I warned the kid Darrell, you know, get this thing
21 going again. They're very upset in New York and they want to
22 know what's happening.

23 Q How long after John Carneglia had gone to prison did this
24 take place, can you estimate?

25 A Right away. A couple of months, within a couple of

1 months after he went away.

2 Q Did there come a time that John Carneglia became involved
3 again relating to the marijuana operation?

4 A Yes.

5 Q What happened?

6 A We flew down to Terre Haute, Indiana. I went down under
7 a phony ID and it was Charles, Kevin McMahon, myself, Richie
8 Ingardia. We went on a visit inside the federal prison while
9 I was on parole. I went under phony ID.

10 Q Let me stop you right there. Terre Haute, Indiana, the
11 federal prison there?

12 A Yes.

13 Q That's where John Carneglia was housed?

14 A Yes.

15 Q How did you learn -- withdrawn. How did it come up that
16 you needed to go there?

17 A Charles and Kevin brought it to my attention. They told
18 me John wanted to see me.

19 Q Did they tell you why?

20 A Over the marijuana situation.

21 Q Was that Kevin McMahaon's first involvement in the
22 marijuana operation or had he been involved before?

23 A No. He wanted to always get involved and I didn't want
24 him involved because I didn't want to expand in that direction
25 with Kevin.

1 But now I guess, since everything went wrong, Kevin
2 felt like he was riding on top of a high horse that I told you
3 so, I told you so -- like this was going to go wrong.

4 Q You went to Terre Haute, Indiana with the defendant,
5 Kevin McMahon and Richie Ingardia?

6 A Yes.

7 Q Who is Richie Ingardia?

8 A He was a very close associate of John Carneglia's and
9 Charles.

10 Q What happened when the four of you got to the prison?

11 A I visited Bruno Indelicato, Anthony Indelicato, I called
12 them out on a visit. They called John -- Richie, Kevin and
13 Charles called John out on a visit.

14 Q Why did you go see someone else instead of John?

15 A So I wouldn't be linked to John at all and John wouldn't
16 be linked to me in the prison visiting room.

17 Q Did you in fact talk to John Carneglia though once you
18 got there?

19 A Yeah. Also, you could only see three adults at the time.

20 Q Did you know Bruno Indelicato before that?

21 A Yes.

22 Q What was his position?

23 A At one time he was a captain in the Bonanno family.

24 Q And what did you and John Carneglia and the defendant and
25 Kevin McMahon discuss?

1 A I brought the articles with me about what happened in
2 Texas.

3 Q Why?

4 A So I could show him and bring him up to date of what was
5 going on with the situation.

6 Q What was his reaction to seeing the articles?

7 A His reaction was that, let's get this thing back
8 together. You believe these people? Is everything all right?
9 Are you going to get jammed up? What's happening? You know.

10 Q What did you say?

11 A I said I'm trying to get it back together now and
12 hopefully everything as we move forward gets together.

13 Q What did the defendant say?

14 A He really wasn't saying anything. Him and his brother
15 were having a little bit of an argument.

16 Q What happened the next day?

17 A The next day I was told to wait in a hotel room and they
18 went back, Kevin, Charles and Richie Ingardia, and visited
19 John.

20 Q Why didn't you go?

21 A I don't know.

22 Q Did --

23 A I was told -- they didn't invite me. I guess they were
24 having a discussion about me.

25 Q After they had that meeting without you, did they tell

1 you what happened in the meeting with John?

2 A No.

3 Q What happened after that?

4 A We went back to Queens.

5 Q What happened to the marijuana business after you got
6 back to Queens?

7 A I tried to put it back together. Darrell Smith stayed in
8 touch with me, got in touch with me, told me he couldn't stay
9 in Texas no more, that it was too hot. I told him fly up to
10 New York. He flew up to New York. I put him on the lam in a
11 girl's house that I knew in Manhattan.

12 Q Let me stop you there. Darrell Smith came up to New
13 York?

14 A Yes.

15 Q Did he tell you he was coming up to New York?

16 A The authorities were looking all over Texas for him.
17 They were going to all his relatives, friends, they were
18 pumping up the heat on him.

19 Q Did you meet him when he came up to New York?

20 A Yes.

21 Q Where?

22 A La Guardia Airport.

23 Q Where did you take him?

24 A I took him into Manhattan.

25 Q Where exactly?

1 A What's that?

2 Q Where exactly did you take him?

3 A I took him across the street from Tompkin's Square Park.

4 Q Why were you are taking him there?

5 A I had a girlfriend of mine that lived across the street
6 from the park and I was going to put him in her apartment and
7 let him stay there until we can get situated.

8 Q What was her name?

9 A Susan Zerbo.

10 Q Spell her last name.

11 A Z-E-R-B-O.

12 Q What did you tell her about why you were putting Darrell
13 Smith in her apartment?

14 A I didn't tell her nothing. I told her I need a favor. I
15 need to put this guy here and help him out.

16 Q Did she agree?

17 A Yes.

18 Q What happened next?

19 A I put him there. He was very nervous, he was always in
20 the apartment. He wouldn't leave. She would with come home
21 from work, he would be there and she just felt uncomfortable.
22 She wasn't having any kind of privacy.

23 Q So what happened next?

24 A We moved him to Long Beach.

25 Q Where is that?

1 A That's Long Beach, Long Island, Atlantic Beach, Long
2 Beach.

3 Q Where did you move him there?

4 A Into a friend of her family's apartment that was away. I
5 think the guy went to Ireland for awhile.

6 Q Where was the apartment in Long Beach, do you recall?

7 A It was in one of the buildings right on the ocean, one of
8 the older buildings, one of the older apartment buildings.

9 Q How long did Darrell Smith stay there?

10 A He stood there all the way till I lost touch with him.

11 Q Did Darrell Smith do anything to change his appearance
12 when he was in New York with you?

13 A We went and got him fitted for a wig; took his beard off,
14 his mustache.

15 Q And he looked like he looks in the photograph?

16 A Yes.

17 Q And where did Darrell Smith go after he was in the
18 apartment in Long Beach?

19 A He would stay in Long Beach. He would stay in touch with
20 me every couple of days because I was on federal parole and I
21 was being careful, just in case I had any heat about meeting
22 him all the time constantly. We would stay in touch. I would
23 bring him up to breast, look, we got to do something here
24 because they're getting very aggravated --

25 Q What do you mean by "they"?

1 A Charles and John --

2 Q Aggravated why?

3 A Because the marijuana business wasn't moving and they
4 thought the guy beat us.

5 Q And where did Darrell Smith go after he left the
6 apartment in Long Beach?

7 A I have no idea.

8 Q Did you ever talk to the defendant again about the seized
9 shipment?

10 A Yes constantly.

11 Q What did he tell you?

12 A What's happening? He wanted to know what was going on.
13 How are we moving forward? Where are these guys? What's
14 happening?

15 Kevin McMahon would be behind the scenes pumping up
16 the aggravation knob, you know, making waves. It wasn't a
17 good thing.

18 Q Did he ever ask you to pay him any money?

19 A Yes.

20 Q Did he ask you or tell you?

21 A He told me his brother wanted 30,000.

22 Q What did you say when the defendant told you that his
23 brother wanted \$30,000?

24 A Where am I going to get it? I just got married. The
25 money I made I pretty much used already. I was living a

1 lifestyle already, so I couldn't just scrape up 30 K and give
2 it over. I felt that it was really unjust that I got to come
3 up with 30,000.

4 Q Was there any resolution of the problem at that point?

5 A No.

6 Q Over time what happened to your relationship with the
7 defendant?

8 A It got rocky.

9 Q Did the defendant ever take any steps to try to collect
10 \$30,000 from you?

11 A Yes.

12 Q What kind of steps?

13 A He used to send Kevin to come and get me; meet Kevin one
14 night, leave a message with my wife that they want my Rolex
15 watch, to drop it off at Charles's house. He told my wife
16 this.

17 Q Kevin is Kevin McMahon?

18 A Yes.

19 Q Did he ever send anyone else to come to try and collect
20 from you?

21 A No.

22 Q Did you ever hear that he was sending any other
23 associates to try to collect from you?

24 A Yeah, but -- Iggy asked me, you know, a couple of people
25 asked me about what was going on, pay the money, get rid of

1 this problem.

2 Q Are you familiar with someone named Joe Panzarella?

3 A Yeah, he sent Joe Panzarella to give me a message one
4 time too.

5 Q What message?

6 A I don't know. He never got the message out. He was
7 scared to death when I caught up with him.

8 Q Joe Panzarella was?

9 A Yes.

10 Q Who was Joe Panzarella?

11 A An associate of Charles.

12 Q Showing you what is in evidence as Government Exhibit?

13 2 U. Who is that?

14 A Joe Panzarella.

15 Q Did the defendant's efforts to get you to pay him ever
16 escalate?

17 A Yeah, he used to go up and down, you know.

18 Q Did he ever threaten you?

19 A I wouldn't call it a direct threat, but lead me to
20 believe that, you know, something bad was going to come out of
21 this.

22 Q Never threatened you directly?

23 A No.

24 Q Did you ever have a conversation with John Alite about
25 the dispute you were having with the defendant over the

1 marijuana money?

2 A Yes.

3 MS. SHARKEY: Objection.

4 THE COURT: Overruled.

5 Q Did can Alite tell about a conversation he had had with
6 another member of his crew with the defendant?

7 A Yes.

8 Q You testified yesterday that at different times Alite was
9 in the crews of John Gotti Junior and Ronny Trucchio and the
10 defendant; is that correct?

11 A Yes.

12 Q What did Alite tell you that the defendant said when he
13 was with the other member of his crew and the defendant?

14 MS. SHARKEY: Objection. Lack of foundation.

15 THE COURT: Overruled.

16 A That they were going to find me in a dumpster; that
17 Charles was going to leave me in a dumpster sooner or later.

18 Q What did you understand to mean?

19 A He was going to try and kill me or hurt me bad.

20 Q Alite told you about that?

21 A Yes. So did Johnny Burke.

22 Q Johnny Burke is the other member of Alite's crew?

23 A Yes.

24 Q Did Alite give you any advice?

25 A Be careful when I go near Charles.

1 Q Did Alite tell you whether he had his own concerns about
2 what the defendant might do to him?

3 MR. FARBER: Objection.

4 THE COURT: Overruled.

5 A Yes.

6 Q What did he tell you?

7 A That he went to Charles' apartment one day. Charles
8 invited him in to go to the bathroom. There was a blue tarp
9 on the floor and Tommy Sneakers was waiting behind the door.
10 He wouldn't go in the apartment.

11 Q Tommy Sneakers, Thomas Cacciopoli?

12 A Yes.

13 Q What did Alite do?

14 A He wouldn't go in the apartment.

15 Q What was your reaction to what Alite told you about the
16 defendant saying you're going to end up in a dumpster?

17 A My reaction for it?

18 Q Yes.

19 A Just made me get more careful.

20 Q How did you and Alite leave that meeting?

21 A As far as what, as friends? Yeah, we were friends. We
22 always remained friends and we would watch each other's back.
23 That's how the meeting broke off, we'd watch each other's back
24 and we always remained friends.

25 Q Did you ever go to anyone else in the family for help in

1 dealing with the defendant over the marijuana dispute?

2 A Yes.

3 Q Who?

4 A Iggy Alonga.

5 Q Who was he?

6 A At the time he was still a soldier in the family; later
7 on to become a captain.

8 Q I believe you testified yesterday that after you reported
9 to the defendant, the next person you reported to in the
10 Gambino family was Iggy; is that right?

11 A Yeah, I was switched to Iggy. Iggy went to Pete and Pete
12 switched me.

13 Q Pete is Pete Gotti?

14 A Yes.

15 Q What was his position at the time?

16 A At the time he was acting boss.

17 Q And why did you go to Iggy for help in dealing with the
18 defendant?

19 A Because I knew Iggy my whole life and I needed somebody
20 to talk to that could intervene on a level to deal with a
21 soldier in the family.

22 Q Had you been switched over to Iggy at that point?

23 A Yes.

24 Q Did you ever go to anyone else in the family, any other
25 crews for help in dealing with the defendant over the

1 marijuana dispute?

2 A Lenny DiMaria and Nicky Corozzo.

3 Q Why did you go to them?

4 A Because they had a higher up position in the family. I
5 knew that Nicky was pretty much advising the kid John Junior
6 on what to do while he acted in the capacity as acting boss,
7 and I thought maybe that they could smooth things over and
8 make things work between me and Charles before I decided to go
9 to Iggy.

10 Q Where did you go see Nicky and Lenny to talk to them?

11 A Pacific Street and Eastern Parkway in East New York.

12 Q Why did you go there?

13 A Cause that's where they hang out. That's where they were
14 hanging out. They had the pigeon store there and the funeral
15 home.

16 Q What did you tell them when you got there?

17 A I told them what took place, the absolute truth and this
18 is what's going on, you know.

19 Q What did they tell you?

20 A They told me they would see what they can do but it would
21 be a bad idea for them to get involved in that situation
22 because who am I to go to the other side of the family to, you
23 know, get things smoothed over. But I knew Lenny a long time
24 from being incarcerated with him and he became a very close
25 friend of mine.

1 Q Did Lenny give you any advice as you left?

2 A Just be careful, you know. I'll see if we can put a good
3 word in for you.

4 Q Did there come a time that you paid the defendant any of
5 the \$30,000 that he was demanding from you?

6 A Yes.

7 Q Explain what happened.

8 A I didn't pay him directly. I paid Iggy.

9 Q Explain how you got the money to pay him.

10 A A friend of mine set up a score to rob a coke dealer.

11 Q Where?

12 A In Great Neck, Long Island, at the Great Bear Service
13 Center on Great Neck Road.

14 Q What happened?

15 A He told me that this guy is going to come up here with
16 five kilos of cocaine and I could rob him and we could whack
17 it up.

18 Q Who was the friend of yours?

19 A Ricky DiBernardo.

20 Q Who was he?

21 A He was at the time my girlfriend's older brother, DB's
22 son.

23 Q Did you go ahead with the score?

24 A Yes, I did.

25 Q Explain what happened.

1 A A guy drove up on a motorcycle to the Great Bear Auto
2 Center, came inside. He was with Steve Cohen. I through down
3 on him with a shotgun. I bungie tied him, took his cocaine,
4 brought him down the basement of the Great Bear and left him
5 and Steve Cohen laying on the floor in the dust down there.

6 Q Let me stop you right there. Who is Steve Cohen?

7 A Steve Cohen was a friend of the guy that I robbed.

8 Q What do you mean "threw down"?

9 A I pointed a shotgun at him.

10 Q What happened after you took them down to the basement?

11 A I left them down there for a little while in the dark to
12 think.

13 Q What happened next?

14 A I cut them lose. They wanted to -- Ricky wanted me to
15 shoot them, but I said I'm not shooting these kids, they're
16 kids.

17 I went downstairs, I cut them loose. I gave the
18 Cuban kid a card to my junk yard. I told him if he's got a
19 problem with me robbing him that he could find me there, but
20 if he did find me there I was going to do mortal damage to
21 him.

22 (Continued next page)

23

24

25

1 EXAMINATION CONTINUES

2 BY MR. NORRIS:

3 Q Did you steal their cocaine?

4 A Yes.

5 Q How much?

6 A Five kilos.

7 Q Did you sell it?

8 A Yes.

9 Q How much did you get?

10 A Half of the proceeds. So it might have been going for
11 twenty-something thousand a kilo then.

12 Q How much money did you pay the defendant?

13 A Eighteen grand out of it.

14 Q Did any of it go directly to him?

15 A I don't know. I gave the money to Iggy. I don't know
16 what he did with it. I find out later on that he never paid
17 him, from Tony Moscatiello.

18 MR. NORRIS: Judge, I think this would be a good
19 place for a break.

20 THE COURT: Yes.

21 Would you be back at 1:30, please?

22 (The following occurred in the absence of the jury.)

23 THE COURT: 1:30, please.

24 (Luncheon recess taken.)

25 (Continued on next page.)

1 A F T E R N O O N S E S S I O N

2 (The following occurred in the absence of the jury.)

3 THE COURT: Bring in the defendant, please.

4 How long will this witness be on, can you estimate
5 it?

6 MR. NORRIS: I believe about forty-five minutes.

7 THE COURT: All right. And then the cross will
8 begin immediately.

9 (The defendant is present.)

10 (The witness is present.)

11 LAW CLERK: Ready for the jury, Your Honor?

12 THE COURT: Yes, please.

13 (Jury present.)

14 THE COURT: Be seated, please.

15 Ladies and gentlemen of the jury, tomorrow we have a
16 hearing from nine to ten, which will not require your
17 presence. Tomorrow you will be here at ten.

18 Is that clear?

19 Tomorrow at 10:00 am.

20 Proceed, please.

21 (Continued on next page.)

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25

1 EXAMINATION CONTINUES

2 BY MR. NORRIS:

3 Q You testified yesterday about recalling seeing Hunter
4 Adams at John Carneglia's beach house in the Hamptons in the
5 late 1980s.

6 Do you recall that?

7 A Yes.

8 Q That Hunter Adams was a Gambino associate?

9 A Yes.

10 Q Do you recall that?

11 This individual here (indicating)?

12 A Yes.

13 Q Again, remind the jury whose crew he was in?

14 A He was in Charles's crew.

15 Q Do you know who Hunter Adams's brother-in-law was?

16 A Yes.

17 Q Who?

18 A Peter Orena.

19 Q Spell the last name, please.

20 A O R E N A.

21 Q Who is he?

22 A He's Vic Orena's son.

23 Q Who is Vic Orena?

24 A Vic Orena was the acting boss of the Colombo Crime
25 Family at the time the war was going on between the two

1 factions in the crime family.

2 Q Do you know other members and associates of the Colombo
3 Crime Family?

4 A Yes.

5 Q I am showing you what's in evidence as Government
6 Exhibit 2-TT.

7 Do you recognize that person?

8 A Yes.

9 Q Who is that?

10 A Sonny Franzese.

11 Q Do you know his first name?

12 A Sonny Franzese, I know him as.

13 Q What position in the Colombo family did he have?

14 A He was a captain, later on to become like an acting
15 underboss or -- -- or some higher up.

16 THE COURT: What were those initials?

17 MR. NORRIS: TT, I believe.

18 THE COURT: Give me a word.

19 MR. NORRIS: Thomas.

20 THE COURT: P?

21 MR. NORRIS: T as in Thomas.

22 THE COURT: Two TT?

23 MR. NORRIS: Yes.

24 THE COURT: Thank you.

25 Q Did the defendant and Hunter Adams have an official

1 relationship?

2 A Yes.

3 Q What was it?

4 A Hunter reported to Charles.

5 Q Do you know when Hunter first began reporting to the
6 defendant?

7 A Sometime in the nineties.

8 Q Early nineties, mid-nineties?

9 A I believe it was the early nineties. I am not absolutely
10 sure.

11 Q Did you ever see Hunter and the defendant together aside
12 from the time at the Hampton's house?

13 A Not really, no.

14 Q Was Hunter friends with anyone else in the defendant's
15 crew?

16 A Michael Reiter, Greg Reiter.

17 Q Those were both associates you talked to the jury about
18 yesterday, is that right?

19 A Yes.

20 Q Greg Reiter died; Michael Reiter is alive?

21 A Yes.

22 Q Michael Reiter is this individual here (indicating)?

23 A Yes.

24 Q Do you know how Hunter Adams made money?

25 A He was in the marijuana business, stock market, stock

1 fraud.

2 Q Did you ever know the defendant to have any involvement
3 in Hunter's stock business?

4 A He would straighten out beefs that Hunter had with --
5 within the stock business with other families.

6 Q How did you know that?

7 A I knew it from Kevin, from Michael Reiter.

8 Q Kevin is Kevin McMahon?

9 A Yes.

10 J.J.

11 Q J.J. Gurino?

12 A Yes.

13 Q Do you know any details about how the defendant
14 straightened out those beefs?

15 A No. I just know that Hunter was with him.

16 MS. SHARKEY: Objection.

17 THE COURT: I will allow it.

18 You may answer.

19 A I just know that Hunter was with him. Any time a beef
20 arose within the business he was involved in, Charles would
21 straighten it out.

22 Q Do you know how long Hunter was with Charles?

23 A All the way up until today, I guess.

24 Q Did you know someone named Chris McMahon?

25 A Yes.

1 Q Who is he?

2 A Close associate of Hunter Adams and Michael Reiter.

3 Q Were you ever involved in a dispute with him?

4 A Yes.

5 Q Can you explain it briefly, to the jury?

6 A I beat him up real bad.

7 Q Why?

8 A Because he disrespected DB's daughter and -- in Long
9 Island.

10 Q Who is DB?

11 A Robert DiBernardo, who was a captain in the family, who
12 was deceased at the time. John Gotti was going on trial and
13 they were abusing DB's daughter and they needed her in his
14 corner.

15 Q You beat up Chris McMahon?

16 A Yes.

17 Q Did the defendant get involved in that dispute at all?

18 A Yes.

19 Q What happened?

20 A He told me to leave Chris McMahon alone.

21 Q Did he tell you why?

22 A Just to leave him alone. That he's around good people
23 and his uncle Ruby or somebody from Fulton Fish Market went to
24 them and asked that I leave the kid alone.

25 Q Did you?

1 A Yes.

2 Q Was anyone else there when you beat Chris McMahon up?

3 A All his friends.

4 Q Name them.

5 A I can't name everyone of them.

6 Chris Russo; Hunter might have been there; Michael
7 Reiter might have been there.

8 It was in AJ's bar, in the parking lot.

9 Gino Mandarina was there. Another kid Dean was
10 there. There was a bunch of kids from Long Island there in
11 the bar and they were all partying and I dragged Chris outside
12 and proceeded to beat him up.

13 Q Dino Mandarina, who is that?

14 A That's Gino Mandarina's son.

15 Q Who is Gino Mandarina?

16 A Gino Mandarina owned clubs and restaurants in Long
17 Island, Five Towns, Merrick, Baldwin.

18 Q Did he have any affiliation with organized crime?

19 A Yes.

20 Q Who was he with?

21 A He was supposed to be with JoJo Corozzo and Charles at
22 the same time.

23 Q Name some of the restaurants that he had.

24 A He owned Montana's. It was a club in the Five Towns, off
25 Broadway. And he owned the Viva Loco in Long Island, one in

1 Huntington, one in Merrick, Bellmore, on Merrick Road.

2 Q Did you ever know the defendant to eat or go to either
3 establishment, Montana's or Viva Loco?

4 A Yes.

5 Q Which one?

6 A Both.

7 Q Did you ever have a conversation with Gino Mandarina
8 about whether the defendant paid when he went?

9 A He never paid.

10 Q Gino told you that?

11 A Yes.

12 Q What did you tell him when he told you that the defendant
13 wouldn't pay when he went?

14 MS. SHARKEY: Objection.

15 THE COURT: I will allow it.

16 A What are you going to do.

17 Q Did he ask you for help?

18 A Yes.

19 Q Did you give him any?

20 A No.

21 Q Did the defendant ever ask you to take any steps to make
22 Mandarina afraid of him?

23 A Yes.

24 Q Was that before you left his crew?

25 A Yes.

1 Q What did he ask you to do?

2 A Terrorize him.

3 Q What did you do?

4 A Called him down to my junkyard and I told him what was
5 up. He had to toe the line and be with Charles or there was
6 going to be problems.

7 Q Did you make any threats to him?

8 A I tried to do it very subtle to him. I didn't want him
9 running to the cops.

10 Q Did he get the message?

11 A Not really.

12 Q Why do you think that?

13 MS. SHARKEY: Objection as to form.

14 THE COURT: I will allow it.

15 Q You can answer.

16 A Because Gino was slippery.

17 Q Do you know if he continued to let the defendant eat at
18 his places without paying?

19 MS. SHARKEY: Objection.

20 THE COURT: Overruled.

21 A Yes.

22 Q You testified yesterday that someone named David D'Arpino
23 was part of the team that you were in charge of that killed
24 John Gebert back in 1997.

25 Do you recall that?

1 A Yes.

2 Q Again, can you remind the jury who Dave D'Arpino was?

3 A Dave D'Arpino's an associate in Johnny Alite's crew.

4 Q This individual here (indicating)?

5 A Yes.

6 Q When did you first meet Dave D'Arpino?

7 A Sometime right after John -- either sometime before or
8 after John went to jail, Johnny Alite.

9 Q Around 1997?

10 A Yeah. Yeah, '97.

11 Q That was the first time you met him?

12 A Yes.

13 Q Did you ever learn about a run-in that D'Arpino had with
14 the defendant?

15 A Yes.

16 Q Did you have a number of conversations with people in
17 John Alite's crew about what happened?

18 A Yes.

19 Q Who specifically?

20 A Patsy Adriano, Mike Malone.

21 Q And what was the nature of those conversations?

22 MS. SHARKEY: Objection. Foundation.

23 THE COURT: Overruled.

24 A What happened to Dave.

25 Q The conversation serious or were they kidding?

1 A They were, you know, kidding around.

2 Q Did you also have a conversation with someone in the
3 defendant's crew about what happened?

4 A Yes.

5 Q Who?

6 A Kevin McMahon.

7 Q Was that before or after you had had the falling out with
8 the defendant and been switched over to Iggy Alongo?

9 A That was after.

10 Q Did you form an understanding as to the reason way Kevin
11 McMahon brought up the incident to you?

12 A Yes.

13 Q Was that understanding to bolster the defendant's status?

14 A Yes.

15 Q In your eyes?

16 A Yes.

17 MS. SHARKEY: Objection. Leading.

18 MR. NORRIS: I will lay a foundation.

19 THE COURT: Overruled.

20 Q In your experience, is that something that Kevin McMahon
21 tried to do frequently?

22 A Yes.

23 Q What did he tell you about the incident?

24 A He told me they picked Dave D'Arpino up. They brought
25 him to the junkyard and poured acid on his feet.

1 Q Who did you understand him to mean by "they"?

2 A Kevin McMahon and Charles.

3 Q Did he tell you, Kevin McMahon, did he tell you where
4 they picked D'Arpino up from?

5 A Somewhere in Howard Beach.

6 Q Did they tell you why they went to pick him up?

7 A Yes.

8 Q What did he tell you?

9 A It was over a shooting that took place in front of John
10 Carneglia's house, at a party.

11 Q This is when John Carneglia is in prison, correct?

12 A Yes.

13 Q Who was living at that house at the time?

14 A John's family.

15 Q Did he tell you what the occasion for the party was?

16 A It was somebody's birthday or graduation. It was some
17 kind of party.

18 Q Do you recall whose?

19 A I think it was his daughter's party.

20 Q What was her name, again?

21 A Justine.

22 Q Do you remember what time of year this was?

23 A Spring or summer.

24 Q Do you remember what year?

25 A Not really, no.

1 Q Did Kevin McMahon tell you who had in fact done the
2 shooting back at the Carneglia's house?

3 A Yes.

4 Q Who?

5 A Joe Scopo.

6 Q But not D'Arpino?

7 A Not D'Arpino.

8 Q When you say that Kevin McMahon told you that they picked
9 him up and brought him over to the junkyard, what did you
10 understand him to mean by picked up?

11 A They put him in a car and brought him to the junkyard,
12 forcibly.

13 Q Kevin tell you who was at the junkyard when D'Arpino
14 arrived?

15 A Just Charles.

16 Q Kevin was there too?

17 A Yes.

18 Q Kevin told you that after they brought him to the
19 junkyard, they tortured him with acid?

20 A Yes.

21 MR. FARBER: Objection, to the use of the word
22 torture. The question was -- the question by the
23 government --

24 THE COURT: Strike the word "torture."

25 You may, however, elicit the details of what he did.

1 Don't have the witness characterize it as torture or
2 you.

3 Q Do you recall -- did Kevin McMahon tell you what kind of
4 acid it was?

5 A Battery acid.

6 Q Did he tell you what --

7 A Car battery.

8 Q Car battery?

9 A Yes.

10 Q Did he tell you what implement the acid was in?

11 A No. Just told me they threw acid on his feet and that
12 was it.

13 Q Did they -- did he tell you what happened after he put
14 acid on his feet?

15 A He let the kid go.

16 Q Did Kevin McMahon tell you what he was doing while the
17 defendant was putting acid on the kid's feet?

18 A He filmed it.

19 Q You testified yesterday that you participated in the
20 conspiracy to murder the owner of Sapienza's Bagel Store with
21 Angelo Ruggiero, Vinny Gotti and others.

22 Do you recall that?

23 A Yes.

24 Q Did Angelo -- this is Angelo Ruggiero, Junior?

25 A Yes.

1 Q Did Angelo Ruggiero, Junior and the defendant know each
2 other?

3 A Yes.

4 Q Did you ever know Ruggiero to work with the defendant?

5 A They were partners in the auto parts business for a
6 while, on Charles's property.

7 Q Did you ever -- were you close with Ruggiero?

8 A Yes.

9 Q Did you ever have a conversation with him about a dispute
10 that he and the defendant had had?

11 MS. SHARKEY: Objection.

12 THE COURT: I will allow it.

13 A Yes.

14 Q And did that dispute result in a meeting in which other
15 members of the family came to straighten things out?

16 MS. SHARKEY: Objection.

17 THE COURT: I will allow it.

18 A Yes.

19 Q Did that meeting involve Peter Gotti?

20 A Yes.

21 Q And who was Peter Gotti at the time?

22 A He was the acting boss.

23 Q When did the conversation that you had with Angelo
24 Ruggiero take place?

25 A It took place in Howard Beach, at Ragtime, right after

1 the dispute.

2 Q Approximately what year?

3 A I don't know. I -- late nineties.

4 Q After you and the defendant had had the falling out?

5 A Early 2000s.

6 Yes.

7 Q Did Ruggiero tell you what the cause of the dispute was?

8 A Charles thought he cheated him out of money, that he was
9 robbing money out of the junkyard, that -- out of the parts
10 business.

11 Q Did Ruggiero tell you what happened?

12 A He told me he never took any money that wasn't his or
13 never stole anything from Charles and that he bumped into
14 Charles on Cross Bay Boulevard in front of the Dunkin' Donuts.
15 They had a fight, an argument, and Charles tried to shock him
16 with a cattle prod.

17 Q Do you know where the cattle prod came from?

18 A Do I know where it came from? I know Charles had it with
19 him in his front seat.

20 Q How do you know that?

21 A It's what Angelo told me.

22 Q You said that Peter Gotti got involved in a meeting
23 afterwards to resolve the dispute they had, is that right?

24 A Yes.

25 Q Was Angelo Ruggiero -- did he go to the hospital after

1 being shocked with a cattle product?

2 A No. I said he tried to shock him.

3 Q Tried to shock him. Okay.

4 The meeting that Peter Gotti attended, where was
5 that, do you know?

6 A Probably somewhere in Howard Beach or the club. I don't
7 know exactly where it was.

8 Q Did Angelo Ruggiero tell you who attended the meeting in
9 addition to Peter Gotti?

10 A Just Charles and Pete. They sent for Charles and told
11 him to back up and leave the kid alone.

12 Q That was the resolution?

13 A Yes.

14 Q You testified yesterday that one of the defendant's very
15 close friends, Jackie Cavallo, proposed you for membership in
16 the Gambino Family around 2002 or 2003.

17 Do you recall that?

18 A Yes.

19 Q Were you with anyone when Jackie told you that he wanted
20 to propose you for membership?

21 A J.J.

22 Q J.J. Gurino, your close friend?

23 A Yes. They were proposing both of us.

24 Q Where were you when Jackie came to you and J.J.?

25 A Lenora's restaurant on Cross Bay Boulevard.

1 Q What time of year?

2 A Somewhere around the holidays, between I think Christmas
3 and New Years.

4 Q Explain to the jury what happened when Jackie came to
5 Lenora's?

6 A He took J.J. for a walk. He spoke to him. J.J. came
7 back to the restaurant and spoke to me and told me what took
8 place and said that we had to go by the club to meet with
9 Pete.

10 Q Pete Gotti?

11 A Yes.

12 Q What was his position in the family at the time?

13 A Acting boss.

14 Q Where did your discussion with Jackie take place?

15 A With J.J.?

16 Q Did you have a conversation with Jackie that day?

17 A Yes, I did.

18 Q Where did the conversation take place?

19 A Outside the restaurant.

20 Q Why didn't you have the conversation inside the
21 restaurant?

22 A In case the restaurant was bugged.

23 Q What did you do when you went outside the restaurant?

24 Did you stand in front?

25 A No.

1 Q What did you do?

2 A In the back, by the kitchen door.

3 Q Where was the defendant at the time?

4 A Incarcerated, federal prison.

5 Q Did the defendant come up in your discussions with Jack
6 Cavallo?

7 A Yes.

8 Q How did that -- how did the defendant come up in those
9 discussions?

10 MS. SHARKEY: Objection. Form.

11 THE COURT: Overruled.

12 Q Answer.

13 A I was concerned about the money situation.

14 Q What do you mean, money situation?

15 A The money that they were trying to collect from me. I
16 already learned from Tony Moscatiello that Iggy didn't hand
17 the money over I had already gave him and I was concerned
18 about the position that I was in with Charles and his brother
19 John.

20 Q This is 2002 or 2003, right?

21 A Yes.

22 Q Do you recall when you gave that money to Iggy to give to
23 the defendant?

24 A The mid-nineties.

25 Q This is going on several years later still in your mind?

1 A Yes.

2 Q And what did you say -- withdrawn.

3 What did Jackie say when you brought up the
4 defendant and your concerns?

5 A Don't worry about it.

6 Q Did he say why?

7 A Because they were going to control it.

8 Q Did you form an understanding as to why you thought
9 Jackie wanted to propose you and J.J. for membership into the
10 Gambino Crime Family?

11 A Did I form an opinion?

12 Q Yes.

13 A We been around our whole lives. I mean, we showed loyal
14 service our whole life.

15 Q Was there anything going on in the family at the time
16 that made you think that there was a more particular reason
17 why Jackie wanted to propose you and J.J.?

18 A Well, the Corozzo crew was getting a lot stronger. A lot
19 of people in the Gotti faction were either in jail or dying,
20 and that crew wasn't so big and strong any longer.

21 Q What did you tell Jackie at that time about the proposal?

22 A I'll think about it.

23 Q Where did you and J.J. go next?

24 A To the club.

25 Q What club?

1 A The Bergen Hunt and Fish Club.

2 Q Who was there?

3 A Pete Gotti, JoJo Corozzo, Blaze Corozzo, Tommy Cacciopoli
4 and Jackie Cavallo.

5 Q Do you know what Tommy Cacciopoli's relationship was to
6 the defendant at the time?

7 A It was his captain.

8 Q You testified yesterday that they were also close
9 friends?

10 A Yes.

11 Q He and Jackie?

12 A Yes.

13 Q What happened when you and J.J. got to the Bergen Club?

14 A We had a couple of drinks of champagne. We were saluting
15 to John.

16 Q John who?

17 A John Gotti.

18 And then Mikey Scars and Cheech came in.

19 Q Who is Cheech?

20 A Cheech is a kid that was around Mikey Scars, was an
21 associate and later became a made member in the family.

22 Q Showing you what's in evidence as Government Exhibit 2-J.

23 Who is that?

24 A Mikey Scars.

25 Q What's his full name?

1 A Mikey DiLeonardo.

2 Q What was his position in the Gambino Family at the time?

3 A He was a captain at the time.

4 Q What happened at the end of the night at the Bergen Club?

5 A Everybody split up. Me and J.J. got in Pete's truck.

6 Pete drove us back to Lenora restaurant.

7 Q Pete is Pete Gotti?

8 A Yes.

9 He drove us back to Howard Beach, to Lenora
10 restaurant, and we said our goodbyes, Happy New Year and I'll
11 see you soon.

12 Q Did Pete talk to you and J.J. about Jackie Cavallo's
13 desire to induct you?

14 A No, no.

15 Q Did you see Jackie again?

16 A Yes.

17 Q Where?

18 A I seen him in the neighborhood. I seen him with J.J. I
19 seen him at Ragtime. I seen him at his house in Long Island.
20 I seen him at his wedding.

21 Q Did you talk to him about his proposal again?

22 A Yes.

23 Q Where?

24 A At his place of business.

25 Q What happened?

1 A I refused.

2 Q At the place of business?

3 A Yes.

4 Q Did it end there?

5 A Pretty much.

6 Q Did you go anywhere else with Jackie?

7 A Went to his wedding.

8 Q What happened there?

9 A His house.

10 Q What happened at the wedding?

11 A I went with my wife. I sat on the other side of the room
12 with all the legitimate people.

13 Q By legitimate people --

14 A Jackie tried to --

15 Q Stop you right there.

16 By "legitimate people," what do you mean?

17 A Business people, people that weren't inducted into the
18 family.

19 Q Why didn't you want to stay with the people who were in
20 the Gambino Family?

21 A Because it was all men and I was with my wife.

22 Q What happened?

23 A They were introducing me around to some made members in
24 the family. I really didn't want to meet them. I didn't want
25 to mingle and I let Jackie know that, not to introduce me to

1 anybody.

2 Q What happened at the end of the night?

3 A I left and went home.

4 Q You testified yesterday that your friend J.J. was killed
5 around October 2003, is that right?

6 A Yes.

7 Q Can you briefly explain to the jury what happened?

8 MS. SHARKEY: Objection. Relevance.

9 THE COURT: Overruled.

10 Q Please.

11 A J.J. was living in Boca Raton, Florida. He was my life
12 long friend. He met a person that used to work for his family
13 up in Brooklyn in the bakery business, baking Italian bread.
14 The guy borrowed some legitimate money from him and some
15 shylock money from him. His name was Rosario Liotta. He
16 wasn't paying the vig on the money. He wasn't paying the
17 money back. He was jerking him around. He was giving him the
18 runaround. JJ was getting very aggravated and hostile about
19 it.

20 JJ figured that I am getting proposed and finally
21 put in, I'm -- I'm getting abused by these guys, this moron
22 that he is, and he went to collect his money after finding out
23 that the guy kept lying to him. The guy was supposed to sell
24 him a house for six hundred thousand. The guy raised the
25 price a hundred thousand.

1 Q What ultimately happened?

2 A JJ got into an altercation with the guy early in the
3 morning in the Palmetto Park Mall at the cafe the guy owned
4 that he promised to give JJ half of the controlling interest
5 in the cafe to pay the money back. There was another
6 goodfella from the crew in the place.

7 Q What is goodfella?

8 A A soldier in the family.

9 Q What happened?

10 A It was Joe Butch's cousin Angelo, Bobby Patta and Kirby.
11 They were in the Pancake House next door to the cafe. They
12 brought JJ in there to discuss the money problem. They wanted
13 to give him thirty-six thousand to resolve it. The guy owed
14 him seventy thousand. JJ wanted his seventy. He told him he
15 was first on line.

16 As he was having this discussion, Rosario pulled up
17 in a brand new 600 Mercedes Benz. Rosario got out of the car,
18 went to the cafe, opened up for the day, went inside.

19 JJ, Kirby, Bobby Patta and Angelo went inside the
20 cafe. JJ and Rosario got into a heated argument while Rosario
21 was standing behind the counter. JJ slapped Rosario. He was
22 mad. As he turned around to leave, Rosario pulled out a
23 pistol. He shot him in the calf. JJ spun around. He shot
24 him three more times, in his side, through both lungs and his
25 heart, knocked him through the window out on to the sidewalk.

1 Q What did you do when you found out?

2 A I flew down to Boca Raton.

3 Q What did you want to do to Rosario?

4 A Kill him.

5 Q Did you ever talk to anyone about helping you kill
6 Rosario?

7 A Yes.

8 Q Who?

9 A Dave D'Arpino.

10 Q The same guy that the defendant poured acid on?

11 A Yes.

12 Q What did Dave D'Arpino say to you?

13 A He didn't want to get involved. He just wanted to stay
14 in the electrician's union and work.

15 (Continued on next page.)

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1 CONTINUED DIRECT EXAMINATION

2 BY MR. NORRIS:

3 Q Did you ultimately kill Rosario?

4 A No.

5 Q Why not?

6 A I couldn't find him.

7 Q Are you familiar with someone named Allen?

8 A Yes.

9 Q Who is he?

10 A Allen is an associate of Charles, Charles' crew.

11 Q You know his last name?

12 A No.

13 Q Describe what he looks like?

14 A Short kid with a bad back, blond hair.

15 Q Big guy, small guy?

16 A Not big, not small. You know, medium.

17 Q How old?

18 A I would say he's in his late thirties, early forties.

19 Q When did you first see him?

20 A The first time in my life?

21 Q Yes.

22 A At Michael's restaurant.

23 Q Where's that?

24 A Cross Bay Boulevard.

25 Q Queens?

1 A Yes, Howard Beach.

2 Q What were you driving?

3 A What was I driving?

4 Q Yes.

5 A I don't know. I could have been driving a Ford Taurus.

6 I could have been driving anything, any kind of car. I don't
7 remember really.

8 Q What was he have driving?

9 A An Oldsmobile 98.

10 Q What were you doing at Michael's restaurant that day?

11 A I was having a good time, drinking, eating, hanging out
12 with some friends.

13 Q Night or day?

14 A Nighttime.

15 Q Do you recall what year this was?

16 A Late nineties.

17 Q Something happened that night?

18 A Yes, Charles and Allen, Kevin.

19 Q Kevin McMahon?

20 A Yes, Craig Marino and a couple of guys came into
21 Michael's when I was there with my friends.

22 Q What friends of yours were you with?

23 A Andrew Buonicountri, Joe Gessario and a friend of mine,
24 Charlie.

25 Q Who is Andrew Buonicountri?

1 A A friend of mine from the neighborhood since he's a kid.

2 Q Ever commit any crimes with him?

3 A Beat people up with him, nothing really. Wanted to rob
4 with him, but nothing ever materialized.

5 Q Joe Gessario is the person you told the jury yesterday
6 you're going to pay him to help kill somebody?

7 A Yes.

8 Q Did you know what the occasion was when the defendant
9 came in with Allen and Kevin McMahon?

10 A It was Charles' birthday.

11 Q What happened when he and the others arrived --
12 withdrawn.

13 Did you acknowledge them?

14 A Not at first, no.

15 Q At this point in time how often were you seeing the
16 defendant?

17 A Not often.

18 Q What happened once they arrived?

19 A While we were hanging out in the restaurant, Kevin
20 McMahon came over and said "You don't acknowledge Charles.
21 Who the fuck do you think you are? He's the wise guy. You
22 ain't going over and saying hello. You're supposed to be
23 saying hello to him."

24 Q What did you say?

25 A I told Kevin "I'll say hello to Charles when I get the

1 chance, when he's not with everybody, mind your business."

2 Q Did that happen a number of times?

3 A Through the years, yes.

4 Q Did Kevin come to you repeatedly that night?

5 A He kept coming around, you know, running his mouth.

6 Q Did you leave the restaurant?

7 A No, Craig Marino left the restaurant.

8 Q What happened next?

9 A As the place closed, we were standing in front and we got
10 into a confrontation.

11 Q Who is "we"?

12 A Me, Andrew, Joe Gessario stood off to the side with
13 Charlie, Charles, Kevin and whoever was left with him, Allen.

14 Q What happened?

15 A Just stupid argument, yelling back and forth. It was
16 really no reason for it.

17 Q Did you eventually take it outside?

18 A Yes, it was outside on Cross Bay Boulevard at the time.

19 Q Did you talk to the defendant?

20 A Yes.

21 Q What did you say?

22 A That we don't need to be doing this; that there's
23 probably agents surveilling us across the street right now.
24 Kevin is yelling "Get the guns. Shoot them."

25 Q Were you armed that night?

1 A Yes.

2 Q With what?

3 A 14-shot.357 Sighauer.

4 Q Where was the gun?

5 A In my crotch, belly bag.

6 Q Why were you armed?

7 A Because I usually walked around armed in the
8 neighborhood.

9 Q Was it visible?

10 A No.

11 Q What did you tell Charles, the defendant?

12 A I told him to tell this kid to calm down, there's no
13 reason for this.

14 Q Which kid?

15 A Kevin and Allen. They were jumping around screaming.
16 Allen was in the car. Then Allen opened the trunk of the car
17 and I stuck my hand in my waist band and was getting ready to
18 shoot Kevin and Allen if he pulled a gun out. He came out of
19 the trunk with a golf club.

20 Q What did you do?

21 A I laughed to myself. He brought a golf club to a gun
22 battle.

23 Q What happened next?

24 A We all left.

25 Q Have you ever seen the defendant since that day?

1 A Not that I recall, no.

2 Q Did you ever see Allen again?

3 A No.

4 Q Did Alan's name ever come up again in conversation?

5 A Yes.

6 Q When?

7 A When he brought back word from Fort Dix into the
8 neighborhood that Charles put a rat wire on me.

9 Q What's Fort Dix?

10 A Fort Dix is a federal prison in New Jersey.

11 Q What's a rat wire?

12 MR. SHARKEY: Objection.

13 THE COURT: I'll allow it.

14 A A rat wire is what I explained before, someone
15 cooperating with the authorities. After all them years I put
16 in, I never cooperated with no one.

17 Q What year was this?

18 A This was 2002, 2003, maybe right after JJ got killed.

19 Q Where were you when you heard the defendant had put a rat
20 wire on you?

21 A Andrew Buonicountri come to me.

22 Q Your friend?

23 A Yes, told me he heard it in Long Island.

24 Q Did he tell you who he heard it from?

25 A Just that they were running around Long Island saying

1 that I was cooperating with the government; that I was a rat.

2 Q That wasn't true at that time, was it?

3 A No, not at all, but it spread around pretty good.

4 Q You understood Allen to be the same Allen that you almost
5 had the altercation with at Michael's restaurant?

6 A Yes.

7 Q What did you do in response to receiving this
8 information?

9 A I was going to shoot Allen in the head.

10 Q Did you?

11 A No.

12 Q Did you go see someone?

13 A Yes.

14 Q Who?

15 A Tommy Sneakers, Tommy Cacciopoli.

16 Q The defendant's captain?

17 A Yes.

18 Q Where did you talk to him?

19 A Outside of Matteo's restaurant, Cross Bay Boulevard or at
20 Charles' Park in the back of Howard Beach.

21 Q That's the name of the park, Charles' Park?

22 A That's the name of the park, Charles' Park.

23 Q What did you tell Cacciopoli when you found him?

24 A That this kid Allen is bringing word from Fort Dix from
25 Charles that I'm a rat.

1 Q What did he say?

2 A He said "What?" He was taken aback, totally by surprise,
3 just like I was.

4 Q Did he say he would do anything?

5 A He said he'll take care of it.

6 Q What happened next?

7 A He went and seen Allen, I guess sent word to Charles.

8 MR. SHARKEY: Objection.

9 THE COURT: Strike that.

10 Q Did you have another conversation with Cacciopoli?

11 A Yes.

12 Q What did he tell you had happened?

13 A He told me that don't worry about it, that he told this
14 kid Allen to mind his business before he let's me do whatever
15 I want with him and just ignore it, but you couldn't ignore
16 it. It was spreading.

17 Q I'm showing you what's in evidence as Government
18 Exhibit 2-BB-2. Who is that?

19 A That's me.

20 Q What's the highest position you attained in the Gambino
21 family?

22 A Associate.

23 Q I'm showing you what's in evidence as Government
24 Exhibit 2-BB-1. Who is that?

25 A That's me.

1 Q Did you have a nickname?

2 A Yes.

3 Q What?

4 A Bud.

5 Q Why did they call you that?

6 A Because I used to call everybody else Bud, "Hey Bud,
7 what's up?"

8 Q You testified yesterday that you were arrested in July of
9 2004 in Florida, correct?

10 A Yes.

11 Q You were charged with racketeering?

12 A Yes.

13 Q And you ultimately pled guilty and were sentenced to
14 46 months in prison?

15 A Yes.

16 Q After you're incarcerated, you're charged again?

17 A Yes.

18 Q In March of 2005?

19 A Yes.

20 Q At that time did you make a decision about how to proceed
21 with the case?

22 A Yes.

23 Q What decision did you make?

24 A I was going to fight the case in Central Islip.

25 Q Did something change?

1 A Yes.

2 Q What?

3 A I cooperated with the government after being in Nassau
4 County jail being called a rat, a cooperator and getting into
5 fights, getting my family abused in the parking lot every day,
6 my mother abused in the parking lot, my wife and kids. My
7 wife was beat up in the street in 2004.

8 Q When did you start cooperating?

9 A June of 2005.

10 Q What had you been charged with in that case?

11 A Marijuana, money laundering and distribution of
12 marijuana.

13 Q That involved the hydroponic marijuana distribution
14 operation you ran?

15 A Yes.

16 Q How much time were you facing in prison?

17 A Twenty years.

18 Q Twenty years?

19 A Yes.

20 Q Did you begin engaging in proffers?

21 A Yes, I did.

22 Q What type of location were you first proffered?

23 A In the Central Islip courthouse.

24 Q Can you explain to the jury what a proffer is?

25 A A proffer is when you sit down with the government, U.S.

1 Attorney's, FBI agents, DEA agents, ATF, whatever government
2 administration, Nassau County detectives squad, Organized
3 Crime Task Force, whatever is involved in the proffer
4 situation, and you begin telling about the crimes that you
5 committed from day one all the way until the day you stop
6 committing crimes.

7 Q Did you proceed to tell the government about all the
8 crimes you committed?

9 A Yes, it didn't take one day.

10 Q Did that include times beyond the ones you were charged
11 with?

12 A Every other crime.

13 Q Murders?

14 A Yes.

15 Q Did you tell the government about a murder that you could
16 receive the death penalty for?

17 A Yes, I did.

18 Q Which murder?

19 A John Gebert.

20 Q What was your understanding as to what about that murder
21 made you eligible for the death penalty?

22 A It was under the new law after 1993, death penalty
23 sentence.

24 Q In addition to talking about your crimes, have you told
25 the government about crimes other people committed?

1 A Yes, over a long period of time.

2 Q People in the Gambino crime family?

3 A Yes.

4 Q People in other crime families?

5 A Yes.

6 Q You get to pick out who you wanted to talk about?

7 A Absolutely not.

8 Q You determined what was talked about in a proffer
9 session?

10 A Absolutely not.

11 Q Ever?

12 A Never.

13 Q Were you required to identify your assets?

14 A Yes, I was required to fill out a financial book about
15 that big (indicating).

16 Q Did that involve surrendering money to the government?

17 A Property and money, corporations, equipment, trucks,
18 tools, buildings.

19 Q Did agents and prosecutors talk to you about the
20 information you were providing?

21 A They questioned me thoroughly.

22 Q Many times?

23 A Many times.

24 Q Over many years?

25 A Since June of 2005.

1 Q To now?

2 A All the way up until now.

3 Q And you continue to be debriefed about different matters?

4 A Yes.

5 Q By different prosecutor's offices?

6 A Yes.

7 Q FBI, DEA squads, other squads?

8 A Yes, I can't talk about everything I know in one day,
9 one week, one month or one year.

10 Q At some point did the federal government relocate certain
11 of your family members?

12 A Yes.

13 Q In a word, why?

14 A Safety and security.

15 Q Are you incarcerated now?

16 A Yes.

17 Q Are you in something known as the Witness Security
18 Program?

19 A Yes.

20 Q Why?

21 A Safety and security.

22 Q Did you speak to myself and others before testifying
23 today?

24 A Yes, I did.

25 Q Did you speak with me several times?

1 A Yes.

2 Q Did you go through the questions?

3 A Yes.

4 Q Did you discuss cross-examination?

5 A Yes.

6 Q Were you provided with information about the case?

7 A No.

8 Q Were you shown surveillance photos?

9 A Yes -- no, never surveillance, head shots, right there
10 (indicating).

11 Q Any surveillance photos?

12 A No.

13 Q Were you shown any documents?

14 A Never.

15 Q Were you shown any newspaper articles?

16 A No.

17 Q Were you shown any physical evidence?

18 A No.

19 Q Were you told who you would testify against?

20 A No.

21 Q Did you guess who through the types of questions you were
22 asked you probably would be testifying against?

23 A Was easy to figure out, yeah, in my own mind.

24 Q I'm showing you what's been marked for identification as
25 Government Exhibit 3500-PZ-2-A. Do you recognize this?

1 A Yes.

2 Q What is it?

3 A It's my cooperation agreement.

4 Q Turn to the last page.

5 A Yes.

6 Q Is that your signature on the last page?

7 A Yes.

8 Q You can put it down.

9 Under the agreement, what is the maximum penalty you
10 face?

11 A Life in prison.

12 Q Can you be fined?

13 A Yes.

14 Q Who decides the fine?

15 A The court.

16 Q The judge?

17 A Yes.

18 Q You have to forfeit any money from your criminal
19 activity?

20 A Yes.

21 Q How much?

22 A \$300,000 more.

23 Q You've been allowed to keep certain assets?

24 A Yes.

25 Q What?

1 A Two homes.

2 Q Can you be required to pay restitution?

3 A Yes.

4 Q Who decides the amount of the restitution?

5 A The judge.

6 Q Do you know what your sentence will be?

7 A No clue.

8 Q Who decides your sentence?

9 A The judge.

10 Q What is your understanding of your obligations under the
11 cooperation agreement?

12 A States in my cooperation agreement I must debrief every
13 time the government comes to see me, honestly and truthfully,
14 to all the known facts about the crimes I've committed and
15 that I've committed with anybody else or anyone else has
16 committed, to be honest and truthful about everything I
17 debriefed to.

18 Q Mr. Zuccaro, what do you get if you comply with your
19 obligations under the cooperation agreement?

20 A 5K1 letter.

21 Q What's your understanding as to what a 5K1 letter is?

22 A A 5K1 letter lists all the crimes I debriefed to and
23 everything I've been involved with my whole life, the
24 cooperation I gave to the government. It goes before the
25 court for my sentencing.

1 Q Fair to say it lists all the bad things you've ever done,
2 everything you've done since you began cooperating?

3 A Like I just stated, yes.

4 Q Does the government in the event you get a 5K1 letter
5 recommend a sentence to the sentencing judge?

6 A Absolutely not.

7 Q Who decides the sentence after receiving the 5K1 letter?

8 A The court, the judge.

9 Q As you sit here today, do you have any idea how much time
10 you'll get when you're sentenced?

11 A No, I do not.

12 Q What's your understanding what happens if you lie?

13 A They rip my agreement up.

14 Q You get to take your guilty plea back?

15 A No, I do not.

16 Q If your agreement is ripped up, what's the maximum
17 penalty you'll be facing?

18 A Death penalty.

19 Q If you don't get the death penalty, what will you get?

20 A Life in prison.

21 Q Any possibility of parole?

22 A No.

23 MR. NORRIS: No further questions.

24 THE COURT: Take a short break, please, ladies and
25 gentlemen.

1 (Jury leaves courtroom).

2 (Witnessed leaves courtroom.)

3 THE COURT: Does the defense still want me to tell
4 the jury that the defendant is not on trial open to a death
5 penalty?

6 MR. SHARKEY: I don't think you need to at this
7 point. Perhaps at some point, but I don't think you need to
8 at this point.

9 THE COURT: When do you want me to tell the jury
10 that? If you want me to tell the jury that, let me know, give
11 me something in writing.

12 MR. SHARKEY: I will.

13 THE COURT: Ten-minute recess.

14 (Recess.)

15 THE COURT: Bring in the defendant, please. Bring
16 in the witness.

17 You didn't offer 3500-PZ-2-A as redacted.

18 MR. BURLINGAME: Offered subject to connection --

19 THE COURT: Whenever you get ready, I'll remind you
20 it's not in evidence.

21 Any other redaction you want?

22 MR. SHARKEY: We haven't seen any of the produced
23 redaction.

24 MR. BURLINGAME: We'll get the judge's comments,
25 redact.

1 MR. FARBER: There was one further paragraph to be
2 stricken. It's not going in at the moment.

3 MR. BURLINGAME: Subject to connection would be
4 once the court ruled.

5 (Pause.)

6 MR. NORRIS: Offer it subject to connection or deal
7 with it?

8 THE COURT: Just offer it and I'll take it subject
9 to further modification.

10 MR. SHARKEY: It's the defense position it
11 shouldn't come in at all, redacted or not. We recognize the
12 court has already a train of thought on that issue. We'll
13 review the redaction, perhaps discuss it tomorrow morning.

14 THE COURT: Thank you.

15 (Defendant and witness present.)

16 (Jury enters courtroom.)

17 THE COURT: Please be seated.

18 Begin your cross, please.

19 MR. FARBER: Yes, thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. FARBER:

22 Q Mr. Zuccaro, you testified yesterday that you wanted to
23 be a gangster since you were a child. Do you recall that
24 testimony?

25 A Yes.

1 Q It was something you aspired to do from a young age?

2 A Yes.

3 Q Your parent had sent you to Catholic private school?

4 A Yes.

5 Q Best describe your parent as hard working individuals?

6 A Yes.

7 Q Your father was a truck driver?

8 A Yes.

9 Q Your mother was a stay at home mom and ultimately took a
10 job at the Hong Kong Shanghai bank?

11 A Yes.

12 Q They tried to keep you on the straight and narrow going
13 in the right direction, correct?

14 A Yes, they did.

15 Q Tried to shield you from the fact that you had a
16 relative, your grandfather who had been in the Bonanno family?

17 A I don't know if he was inducted into the family. I know
18 he knocked around, had three social clubs in the neighborhood.

19 Q They wanted you, rather, to go in that life, they wanted
20 you instead to find a trade, go on to higher education?

21 A Yes, they did.

22 Q But instead by the age of 15, you were stealing cars and
23 aspiring to be a member of organized crime?

24 A Yes, I was.

25 Q Yesterday you described yourself as a career criminal.

1 Is that an accurate description?

2 A Yes, I am.

3 Q You have literally committed hundreds of crimes?

4 A Maybe thousands of crimes. I don't know, I can't count
5 how many crimes I committed, but a lot of crimes.

6 Q Maybe thousands.

7 A Maybe. I don't know. A lot of crime.

8 Q Many of those crimes were crimes of violence?

9 A A lot of violence.

10 Q A lot of violence. You were feared on the streets; isn't
11 that correct?

12 A Yes, I was.

13 Q You were feared by all the people who knew you?

14 A I don't know all the people that knew me, but I was
15 feared by a lot of people.

16 Q You enjoyed that reputation of being a tough guy on the
17 street, a person who should not be messed around with.

18 A Yes, I did.

19 Q Is it fair to state it gave you a psychological thrill, a
20 mental high to have that power to scare people?

21 A I wouldn't say that. I would say I didn't use it
22 unnecessarily. I enjoyed it.

23 Q You enjoyed striking terror into the hearts of people?

24 A If it need be, I did. If it didn't need be, I didn't.

25 Q You enjoyed watching them recoil in fear when you needed

1 to do what you needed to do?

2 A Yes.

3 Q Made you feel strong?

4 A Yes.

5 Q Made you feel powerful?

6 A Yes.

7 Q You were known as a person who would commit violence.

8 You were an enforcer; is that correct?

9 A Yes.

10 Q You were a hired gun?

11 A Yes.

12 Q Your reputation was one that if someone in the
13 neighborhood wanted somebody hurt, killed or kidnapped, you
14 were going to be available for the right deal?

15 A Yes.

16 Q In the speak of the mob world, you were known for your
17 work?

18 A Yes, I was.

19 Q You were valuable to the mob because of your work?

20 A Yes.

21 Q Again, you would harm anyone for that right price?

22 A Yes.

23 Q Is it fair to state you would hurt people for personal
24 kicks at times, personal enjoyment?

25 A Personal enjoyment? What do you mean, just go pick

1 somebody out? I don't understand that.

2 Q Not a random act. You enjoyed it when you got into
3 fights?

4 A Did I enjoy fighting? Yeah, I did.

5 Q In fact, you got into fights on a daily basis.

6 A I had a lot of fights in my life.

7 Q In fact, people got into your face, you would beat them
8 down without any hesitation?

9 A If they were not a superior to me or made man, yes, I
10 would.

11 Q Yesterday you testified that the main goal of the Gambino
12 crime family was that of money and power; do you recall that
13 testimony?

14 A I do.

15 Q That was your personal model as well, correct?

16 A Yes.

17 Q Over the years, you have committed murders or conspired
18 to murder numerous individuals?

19 A Yes, I have.

20 Q Some of which you have pled guilty to and others you have
21 not?

22 A I don't understand that question.

23 Q Did you plead guilty to all the murders you conspired to
24 commit?

25 A You would have to show me my cooperation agreement.

1 Q Well --

2 MR. FARBER: Is it laying around here,
3 Mr. Burlingame?

4 THE WITNESS: My plea agreement.

5 (Pause.)

6 A Yes.

7 Q Yes what?

8 A To the question you just asked. I pled guilty to certain
9 murders and except provided in paragraphs one, eight and nine,
10 no criminal charges will be brought against the defendant for
11 his heretofore disclosed participation in the crimes charged
12 in the superseding information for the period from '79 --

13 Q Not to cut you off?

14 THE COURT: Let him finish.

15 MR. FARBER: He's reading something not in
16 evidence.

17 THE COURT: You may read it. You asked him. Go
18 ahead. Continue reading.

19 Q Go ahead.

20 A And for the following truck hijackings from approximately
21 1970 to 1980, here on, distribution in and around the time
22 period of 1971 to -- '79 to '81, the assault of Frank
23 Pepitone approximately late 1970s, assault of John Doe one,
24 Gambino associate, approximately the late 70's, manslaughter
25 of Mitchell Manfredi, the mid-'70s being accessory after the

1 fact of a murder of a security guard and approximately 1994
2 being accessory to the fact of a murder of two individuals,
3 full name unknown, last name unknown, full name unknown, last
4 name unknown on Woodhaven Boulevard, approximately late 1980s
5 or early '90s being accessory after the fact to the murder of
6 an individual on Queens Boulevard in approximately the late
7 '80s or early '90s, conspiracy to murder Mike Harrigan,
8 approximately the late '80s or early '90s, the robbery and
9 assault of an individual regarding cocaine transaction,
10 approximately '94, cocaine trafficking approximately 1994,
11 robbery conspiracy with Marty Borsatin (ph), mid-'90s,
12 conspiracy to murder Scott Schulman, approximately mid-'90s,
13 robbery of a residence in Dix Hills, approximately 1994,
14 murder conspiracy of John Doe two, concrete plant owner, Long
15 Island, approximately 1999 and conspiracy to murder John Doe
16 number three in 2003.

17 (Continued on next page.)
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19
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25

1 BY MR. FARBER:

2 Q Is that the complete list of which you pled guilty to?

3 A No. That's the list that I just stated on top.

4 Q Those are the specific --

5 A Except as provided in paragraphs 1, 8 and 9, no criminal
6 charges will be brought against the defendant for his
7 heretofore disclosed participation in the crimes charged in
8 the superseding information.

9 Q Those specific crimes are the ones you admitted to,
10 correct?

11 A Yes.

12 Q You got a free pass on all of the others?

13 A I mean, how many times can I die in prison?

14 Q You committed thousands of crimes, you said?

15 A Yes, I did.

16 Q You don't even know how many murders you committed?

17 A I don't know?

18 Q Do you know how many?

19 A I pled guilty to two murders.

20 Q And you pled guilty to two. But you committed more?

21 A I did?

22 Q Well, what about Septimo Fava, remember him?

23 A I pled guilty to Septimo Fava's murder.

24 Q Let's talk about Mr. Fava. You killed him because you
25 wanted to increase your standing within the Bonanno crime

1 family; correct?

2 A Yes.

3 Q You hope by killing him this would help you become a made
4 member in that crime family?

5 A Yes.

6 Q This murder happened in the late seventies?

7 A Yes.

8 Q At that point in time you were an associate in the
9 Bonanno crime family?

10 A Yes, I was.

11 Q That was the family you initially joined?

12 A I was an associate.

13 Q Frank Bonnamo, the captain -- a captain in that family,
14 got upset with Mr. Fava for an insult?

15 A Yes.

16 Q Correct?

17 A Yes, did he.

18 Q In fact, I think you had he was cursed out in Italian
19 yesterday?

20 A Yes.

21 Q And that got Mr. Bonnamo serious?

22 A Yes, it did.

23 Q For that insult he wanted Mr. Fava murdered?

24 A Yes.

25 Q And you agreed to participate in his murder without any

1 hesitation?

2 A Yes, I did.

3 Q You wanted to impress your capo?

4 A Yes, I did.

5 Q You wanted to be a success in this particular kill?

6 A Yes.

7 Q You stole a maroon Chevy Caprice that was retagged?

8 A Yes.

9 Q You additionally stole a second car for that job?

10 A Yes.

11 Q And you drove one of your co-conspirators, a Mr. Boccia,
12 in a car to commit the crime?

13 A Yes.

14 Q And as Mr. Fava was returning home from work one night
15 around midnight, Mr. Boccia jumped out of the car you were
16 driving and gunned Mr. Fava down?

17 A No, he didn't jump out of the car.

18 Q He shot him from inside the car?

19 A No. He came up to him from the sidewalk where he was
20 waiting in the dark and shot him.

21 Q Shot him coming out of the dark?

22 A Coming out of the dark.

23 Q Killed him right in front of his house?

24 A I don't know if it was in front of his house or up the
25 block from his house, but he killed him where he was walking

1 down the block.

2 Q Right there on the street where his family could find
3 him?

4 A Right in the street.

5 Q Right on the street where anyone could find him?

6 A Yes.

7 Q You didn't care about that?

8 A No, I did not.

9 Q You had no problem watching him get gunned down by your
10 co-conspirator?

11 A No, I did not.

12 Q Because you knew this was going to benefit you?

13 A Yes, I did. I thought it was going to benefit me.

14 Q You had no particular empathy for Mr. Fava, did you?

15 A None whatsoever.

16 Q The only way you saw Mr. Fava was your meal ticket to
17 take you higher up within the family?

18 A Yes.

19 Q You saw Mr. Fava see your co-conspirator come out from
20 the shadows and he started to run in fear?

21 A No. He didn't run in fear. He was just shot dead right
22 there.

23 Q He didn't even see it coming?

24 A Didn't even see it coming, I guess.

25 Q Yesterday you talked about the shooting of Angelo

1 Mugnolo.

2 Do you remember that?

3 A Yes.

4 Q And you said you had some hesitation about that
5 particular murder because Mr. Mugnolo lived across the street
6 from a church?

7 A Yes.

8 Q So your concern wasn't for Mr. Mugnolo, it was merely
9 because of where he happened to reside?

10 A Yes.

11 Q You had no concern if Mr. Mugnolo was killed in front of
12 his family, his children or his wife?

13 A I wouldn't have killed him in front of his family, no, I
14 would not have done that.

15 Q And if they happened to be home when you were ready to do
16 the shot, would it have stopped you?

17 A You just got done about asking me killing him across the
18 street from the church. I wasn't going to kill him there this
19 front of his family.

20 Q If the church wasn't there you would have killed him?

21 A If the church wasn't there, he could have died there.

22 Q He of died there right at his house?

23 A That's what would have happened.

24 Q The only reason it didn't happen there, the shooting, is
25 because you had some superstition about divine retribution?

1 A It wasn't a superstition. Just that old-time mob law,
2 you didn't kill anybody in front of a church or near a church
3 or on the block of a church.

4 I mean at one time we did have some kind of, you
5 know, code. But later on in years, I guess guys didn't care
6 where they shot people. Me, I wasn't going to shoot him by a
7 church.

8 Q You had your standards?

9 A Call it what you may, but I wasn't going to kill him in
10 front of a church.

11 Q You were involved in the murder of John Gebert?

12 A Gebert.

13 Q Correct?

14 A Yes.

15 Q And this murder again didn't involve you per se, the
16 reason for the murder, it was about a feud between John Alite
17 and Mr. Gebert?

18 A I guess it was an accumulation of problems that the kid
19 caused in the neighborhood since the mid-to-late eighties, all
20 the way up until he got killed.

21 Q Mr. Alite was annoyed that Mr. Gebert had a grudge
22 against him because he had been abandoned during a robbery
23 they had done together many years earlier?

24 A I don't think it was only Alite. I think that there was
25 a beef with other people in the family too.

1 Q Mr. Gebert was not a favorite of certain people?

2 A Mr. Gebert was no less mad, bad or dangerous than I was.

3 Q Except he's dead and you're alive?

4 A Exactly.

5 Q Mr. Alite wanted to kill him?

6 A Yes, he did.

7 Q And he came to you and asked you if you would help?

8 A Yes, he did.

9 Q And you agreed to take control, organize and plan out the
10 murder?

11 A Yes, I did.

12 Q And the only instructions you got from Mr. Alite was wait
13 till I'm in jail, being Mr. Alite, so he has an alibi?

14 A No, that wasn't the only instruction.

15 Q Mr. Alite was planning to step into jail, correct?

16 A Yes, it was.

17 Q And he was going to be going in within a short period of
18 time?

19 A Yes.

20 Q And he did tell you not to kill Mr. Gebert until he was
21 safely away in jail so he had an alibi?

22 A But that wasn't the only instruction.

23 Q And you followed Mr. Gebert to figure out a best place to
24 murder him?

25 A No.

1 Q You put together a crew?

2 A Johnny Alite put the crew together and instructed them.

3 Q Who was in that crew?

4 A Patsy Andriano, Mike Malone, Dave D'Arpino, and Johnny
5 Burke.

6 Q And the plan ultimately was to follow this man to Frankie
7 & Johnny's?

8 A That wasn't the plan. He hung out in front of Frankie &
9 Johnny's.

10 Q What is Frankie & Johnny's?

11 A It's a bar that was with Charles.

12 Q Is it a bar?

13 A Yes, it is.

14 Q Crowded bar?

15 A Yes, it was.

16 Q Popular place?

17 A Yeah, it was crowded.

18 Q And on the night of Mr. Gebert's murder he went to this
19 particular bar?

20 A Yes, he used to go there every night.

21 Q And you and the other part of the assassin crew were
22 outside?

23 A No.

24 Q Where with you?

25 A I walked down to the corner to see where he was. Patsy

1 and everybody were waiting up the block by his house where
2 they proceeded around the corner to get into the van that was
3 used in the murder plot.

4 I told them on the walkie-talkie to get ready, he's
5 there. I walked around the corner, got in my truck. As I got
6 in my truck, they came around the corner in the van, pulled up
7 and did what they had to do.

8 Q Did what they had to do?

9 A Yes.

10 Q You're proud of the way this one turned out?

11 A Not proud. It just was something that had to get done
12 and we took care of it.

13 Q It was a job well done?

14 A It was done well. No one was caught.

15 Q A man was first shot outside the bar?

16 A I don't know where the first shot hit him, but I know he
17 was killed. I wasn't standing there when he was shot.

18 Q You did speak to your co-conspirators about what
19 happened?

20 A Yes, I did.

21 Q You all joked and bragged about it after the shooting?

22 A It was no joke. It was get rid of the guns, burn the
23 clothes and don't talk about it anymore. I'll see youse
24 later.

25 Q In fact, there was an innocent bystander who was shot

1 outside the bar first, Carl Costello?

2 A I think that was Johnny Gebert's like main man, like a
3 bodyguard or something. He got in the way.

4 Q He got in the way so he got shot?

5 A Yes.

6 Q And then Mr. Gebert ran inside Frankie & Johnny's and hid
7 under the pool table to try to protect himself?

8 A Yes, he did.

9 Q And then your co-conspirators went inside and gunned him
10 down underneath the pool table?

11 A Yes, they leaned over underneath the pool table and
12 killed him.

13 Q And this is a crowded room, other patrons?

14 A I think the bar pretty much emptied out when they were
15 doing that.

16 Q Emptied out because people were running in terror because
17 there were gunshots going off?

18 A Yes.

19 Q No compunction about shooting him in public?

20 A It had to get done.

21 Q Had to get done?

22 A Had to get done.

23 Q You hunted him down like an animal; correct?

24 A I don't know if he was hunted down like an animal. I
25 know he was killed in Frankie & Johnny's on Jamaica Avenue.

1 Q Again, because it had to be done?

2 A It had to get done.

3 Q And that's because Mr. Alite asked you to make it happen?

4 A That's because Johnny Gebert terrorized the neighborhood,
5 ran around with AK-47s, shot up bars, ran after wise guys in
6 the middle of the street shooting at them, dealing drugs on
7 Jamaica Avenue, shooting people at his every whim.

8 Q You felt justified in having him killed?

9 A It's not justification, it's what they felt had to get
10 done and it got done.

11 Q What they felt?

12 A Yes.

13 Q Again, you were the hired killer?

14 A I wasn't paid any money. I wasn't hired. I was just
15 doing it for the -- what you would say, the recognition in the
16 family.

17 Q You were doing it to increase your standing in the family
18 as a person of violence who could be counted on?

19 A Yes.

20 Q You carried weapons on a regular basis?

21 A Yes, I did.

22 Q In fact, you just told us earlier that you always carried
23 a weapon when you were in the neighborhood?

24 A Yes.

25 Q And you mentioned some sort of 14-shot, what type of gun?

1 A That was one of numerous weapons I had in my possession,
2 you know, one time or another. It's just -- that's a new
3 model Sig Sauer semiautomatic 357.

4 Q 357, that's a pretty powerful gun?

5 A Yes, it is.

6 Q Could blow a hole right through somebody?

7 A Yes, it can.

8 Q And the semiautomatic means you just have to put a little
9 bit of pressure on the trigger and the bullets will start
10 flying boom, boom, boom without any need for you to keep on
11 cocking the gun?

12 A Yes..

13 Q In fact, you had an arsenal of weapons over your life in
14 crime, isn't that correct?

15 A Yes, I did.

16 Q And you had machine guns?

17 A Guys in my crew had machine guns.

18 Q You had stun guns?

19 A Stun guns.

20 Q Assorted collection of knives?

21 A Yes.

22 Q And you even had a garrote?

23 A A what?

24 Q I'm probably mispronouncing it, a --

25 A Garrote.

1 Q Garrote, thank you.

2 A Yes, I had a garrote.

3 Q That is sort of an old-fashioned type of weapon, isn't
4 it?

5 A Yes.

6 Q From the medieval ages?

7 A Yes.

8 Q And what's that used for?

9 A Strangulation.

10 Q How would that work?

11 A Throw it over somebody's head, around their neck and you
12 strangle them with it.

13 Q And you've used that?

14 A No, I never strangled anybody.

15 Q You never strangled anybody?

16 A No.

17 Q Going back to the murders a for a second. You also
18 killed Michael Manfredi?

19 A Mitchell.

20 Q Mitchell Manfredi?

21 A Patsy Andriano strangled him.

22 Q He was strangled?

23 A I didn't strangle him, he strangled him. You said me.

24 Q How did he get strangled?

25 A I guess Patsy threw his arms around his neck and put him

1 in a choke hold.

2 Q You were there, right?

3 A I was coming out of my house, yes, I was.

4 Q This guy, Mr. Manfredi, was selling drugs in Ozone Park;
5 correct?

6 A Jamaica Avenue mainly, Woodhaven.

7 Q And this was perceived as causing a problem for Patsy
8 Senior, Mr. Boccia, and John Santora because it was bringing
9 heat to the area, police attention?

10 A Yeah. He was shooting people in the neighborhood up at
11 the Dome. He doing a lot of treacherous shit in the
12 neighborhood, walking around with guns, walking around with a
13 sawed-off shotgun under his jacket, terrorizing people.

14 Q So the group of you decided you were are going to put an
15 end to his causing problems?

16 A No. It wasn't decided that he was going to get killed.
17 He forced that.

18 Q He forced himself to get murdered?

19 A Yes. You pull a gun out, you're going to do something
20 with it, now it's you or me.

21 Q So he forced himself to get strangled to death?

22 A Well, I mean the guy was pulling out a .45 or a
23 9-millimeter to shoot one of them, kill them. What do you do,
24 let him kill you or you kill him?

25 Q If I'm correct, he was killed by being beaten to death

1 and strangled?

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q So despite the fact he pulled a gun out --

6 A He didn't get the gun all the way out. They grabbed him
7 in time.

8 Q No one shot him?

9 A No.

10 Q Nothing stopped you and the other men there that night
11 from simply beating him down and leaving; correct?

12 A Beating him down and leaving?

13 Q And leaving?

14 A You weren't beating that kid down and leaving. He was
15 coming back an hour later and killing you. What are you
16 talking about?

17 Q You were are going to just finish him off no matter what?

18 A He did what he did and he got put in that position.

19 Q He did what he did and you guys did what you had to do
20 also, correct?

21 A They did what they had to do. I just walked up on the
22 scene when it happened.

23 Q No role in that at all?

24 A I mean I didn't plan anything or say let's go kill
25 Mitchell Manfredi. The guy was straightening out a beef with

1 my friends and that's what happened.

2 Q For someone who just walked out upon it, you pled guilty
3 to it?

4 A Yes, I did.

5 Q You pled guilty to it because you were involved?

6 A Yes. I was involved.

7 Q You were responsible as much as everyone else for that
8 man's death?

9 A Yes.

10 Q You threw some punches?

11 A Yeah, I could have punched him, grabbed him, threw him on
12 the floor, picked him up, threw him in the car after he was
13 dead.

14 Q You could have done a few things like that?

15 A Yeah.

16 Q Threw him in the car. Remember what you did with him
17 after you sort of threw him in your car?

18 A I didn't throw him in my car.

19 Q You threw him in someone else's car?

20 A I threw him in a stolen car.

21 Q And then just washed your hands of it?

22 A Yes.

23 Q You also mentioned that you pled guilty to being an
24 accessory to murder after the fact about a security guard?

25 A Yes.

1 Q This goes back to sometime in the mid-1990s?

2 A Yes.

3 Q And at that point in time you were providing protection
4 to Bobby Roselli who was --

5 A Yes..

6 Q Correct?

7 A Yes.

8 Q Mr. Roselli was concerned about his safety because he had
9 some dispute with a guy named Jerry?

10 A Yes.

11 Q And Iggy Alonga, the guy who you ultimately aligned with,
12 he asked you if you would step in and be his protector?

13 A They asked me to be security around the shredder so
14 nobody would send anybody in there to do any kind of harm to
15 Bobby Roselli, burn the place down, run in there and terrorize
16 his family, beat him up.

17 Q Were you paid for your services?

18 A Not really.

19 Q This was just part of what you did on your normal
20 day-to-day activity?

21 A No, Iggy asked for a favor and I carried it out and
22 helped him out.

23 Q And, in turn, you asked your brother Steve and Patsy
24 Andriano Junior and Andrew Buonecontri to help you out?

25 A Yes.

1 Q And one day the people you asked to help you out saw
2 Mr. Roselli with a bag of money; correct?

3 A I never seen him with a bag of money. They must have
4 seen him when I wasn't there because they went ahead and did
5 what they did without my knowledge or okay.

6 Q So they went back to the office off hours to try to
7 burglarize the office and get the money and they were
8 confronted by the security guard at that location?

9 A Yes.

10 Q And they killed him?

11 A Yes, they did.

12 Q And this was a, as you called it earlier, a working
13 stiff?

14 A Yes.

15 Q And that bothered you?

16 A I didn't like the idea of that, no.

17 Q And you were upset that they, one, burglarized the person
18 you were supposed to be protecting and, two, they killed this
19 working stiff guy?

20 A I was very upset about it, yes. What was I going to do?

21 Q You were so upset that you took your cut of the money
22 that was stolen?

23 A They gave me \$12,000, yes, and I accepted it.

24 Q You accepted it despite the fact you were upset about the
25 working stiff dying?

1 A Yes.

2 Q You weren't too upset to not take the money?

3 A I was upset. I took the money.

4 Q You took the money?

5 A Yes, I did.

6 Q And you had no problem betraying the trust of the person
7 you were designed to protect, Mr. Roselli?

8 A What was I going to do, tell Bobby Roselli that my
9 brother and Patsy Andriano just burglarized your place and
10 killed the security guard? I had to keep my mouth shut. I
11 was caught in a Catch 22.

12 Q You just kept the money?

13 A I just kept the money and kept my mouth shut.

14 Q And hid the lie from everyone?

15 A Yes, I did.

16 Q And then you were an accessory to another murder yet
17 sometime in the late 1980s to early 1990s, something to do
18 with Danny Fama?

19 A Yes.

20 Q And this had to do with Mr. Fama dealing with an
21 individual by the name of Hippie in his heroin transaction?

22 A Yes.

23 Q And someone ended up murdering Hippie?

24 A Yes.

25 Q And Mr. Fama approached you and said he wanted your

1 assistance in tracking down Hippie's killers?

2 A No. He didn't need my help in tracking them down.

3 Q But you agreed to help him?

4 A I agreed to steal a car for him and park it on Woodhaven
5 Boulevard.

6 Q And by stealing the car for him, it was not because he
7 needed a lift somewhere, correct?

8 A No, he was going to use that car to take care of
9 business.

10 Q And you knew when you stole the car for him that he was
11 going to use it to take care of business?

12 A Yes.

13 Q And then at some point in time he beeped you and asked
14 you to come to a location?

15 A Yes.

16 Q When you go, you go with Kevin McMahon?

17 A Kevin McMahon want wasn't with me directly.

18 Q How was he with you indirectly?

19 A I think Kevin was with one of Danny's friends somewhere.

20 Q And when you got there you see two bodies on the ground?

21 A Yes.

22 Q And again you sort of helped throw them in the car?

23 A No. He was picked up and we drove him away from there.

24 Q Left the bodies there?

25 A Yes.

1 Q Any idea who was killed?

2 A No.

3 Q Did you have any interest in knowing the names of the
4 people that were killed?

5 A No, none of my business.

6 Q Do you have any idea of the name of the security guard
7 who died at that last location?

8 A No.

9 Q Do you have any interest in learning who it is?

10 A No.

11 Q You helped Danny Fama with a second murder, correct?

12 A Yes.

13 Q This was an Asian male?

14 A Yes.

15 Q Again, somewhere around 1990 to 1991?

16 A Yes.

17 Q And again, Mr. Fama calls you over to the Queens Center
18 Mall area?

19 A Yes.

20 Q And when you get there you see that Mr. Fama is covered
21 with blood?

22 A Yes.

23 Q And he had just killed somebody?

24 A Yes, he explained to me he just killed somebody and I
25 drove him away from there.

1 Q Just helping out a friend?

2 A Yes.

3 Q That's --

4 A A friend in the crime family.

5 Q Just left the body there as well?

6 A Yes.

7 Q You also conspired to murder Mike Harrigan sometime in
8 the late 1980s or early 1990s.

9 Do you recall that?

10 A Yes.

11 Q And this all had to do with the death of Greg Reiter?

12 A Yes.

13 Q And after Mr. Reiter died, his brother, also named
14 Michael, blamed Mike Harrigan for the murder?

15 A Michael wasn't the one that blamed him. It took some
16 investigative work to find out what happened, what went down.
17 Charles was notified about it. Charles didn't do anything
18 about it.

19 Michael wanted something done about it and Charles
20 was dragging his feet and dragging his feet and Michael kept
21 coming to know, bothering me, find out what's going on here,
22 and I found out from Danny Fama that Tommy Karate, Mike
23 Harrigan, Billy Bible, and a couple of other people set his
24 brother up and executed him in the back of a van and chopped
25 his body up and got rid of it.

1 Q When Greg died, you're saying Charles didn't want to have
2 anything to do with it, so you took it upon yourself to figure
3 out who the killers were and then you were going to kill them
4 yourself?

5 A No.

6 Q Well, in fact, you were very close with Greg, isn't that
7 correct?

8 A Yes.

9 Q And you felt very vengeful, you wanted to get the guy who
10 killed him?

11 A I also wanted to know what happened to Greg and get hung,
12 yes, I did. I wanted to get revenge for whoever killed the
13 kid.

14 Q The same way you wanted to avenge the murder of your
15 friend JJ down in Florida?

16 A Yes.

17 Q So if someone close to you gets killed, you will avenge
18 their murder?

19 A I would have. I will not do that ever again in my life.

20 Q Right now you're in jail, right?

21 A Yes.

22 Q A little hard for you to do much being in jail?

23 A Yes.

24 Q Did you ever hear something related to that murder about
25 Hunter Adams paying \$10,000 toward the murder of Greg?

1 A I don't know if it was Hunter that paid the money or
2 Michael. Somebody in that crew paid the money to Frankie
3 Americanda.

4 Q And again, relating to this murder, you drove around with
5 Kevin McMahon on several occasions trying to find Tommy
6 Karate; correct?

7 A Pretty much we knew where to find Tommy Karate, but Tommy
8 Karate was off limits. Charles was supposed to handle that
9 situation.

10 Q Mr. McMahon accompanied you?

11 A McMahon was with me when I met Danny a couple of times.
12 When I met Frankie Americanda, I spoke about what happened to
13 Greg; he was there a couple of times, yes.

14 Q And then another murder, you went to conspire to kill
15 someone named Scott Schulman, again in the 1990s?

16 A Yes.

17 Q And somewhere between '93 and '97 you learned that
18 Mr. Schulman had threatened to kill Patsy Andriano Junior and
19 Mike Malone?

20 A Yes.

21 Q And these were people who were close with you?

22 A Yes. That was Patsy Senior's son.

23 Q On one day you actually said, I believe yesterday, you
24 saw Schulman driving around in the neighborhood of your mom's
25 house?

1 A Yes.

2 Q And you confronted him?

3 A Yes.

4 Q You said, What are you doing here?

5 A Exactly.

6 Q And to settle it out you guys agreed to meet at the New
7 Park Pizza?

8 A Yes, we did.

9 Q And your intentions when you were going to the New Park
10 Pizza was to kill Schulman?

11 A Yes.

12 Q That was your idea of trying to settle this down?

13 A Well, Scott Schulman was a bad, dangerous kid himself.
14 He was a shooter. He was a killer and I wasn't going to let
15 him get the jump on me. I wasn't going to let him gun me down
16 in the street in front of my mother's house.

17 Q When you go to this pizza place to talk it out, you're
18 not planning to talk?

19 A No. I'm planning on to shoot him.

20 Q In fact, you go there with a shotgun?

21 A Yes.

22 Q And you enlist Joey Lampasono to join you?

23 A No, I enlisted Joey Lampasono to steal a car for me, not
24 to join me. I didn't want that kid involved. He had no
25 knowledge of what I was going to do.

1 Q When you get to the pizza place, you indicated that
2 Charles Carneglia and Kevin McMahon show up?

3 A Yes.

4 Q And they tell you, Leave Schulman alone?

5 A Yes.

6 Q And you get into an argument in the parking lot?

7 A No, we weren't in the parking lot. We were on the side
8 of New Park Pizza facing west on the Avenue.

9 Q At some point in time for some reason the police arrive
10 while the argument is taking place?

11 A Yes.

12 Q And before you and everyone else run away, you take you
13 shotgun and you throw it in the car of a guy named Ricky
14 DiBernardo?

15 A Yes. I know Ricky a long time.

16 Q And Ricky's a friend of yours?

17 A Ricky is a friend of mine.

18 Q And Ricky ends up getting arrested and charged with gun
19 possession because you threw the gun in his car?

20 A Yes.

21 Q And you didn't do anything about that to help him out?

22 A No. I had already threw the gun in his car and was
23 getting away with Charles and Kevin.

24 Q Here it is your friend is going down for a gun possession
25 charge and you're like, hey, too bad. That's life. That's

1 the breaks?

2 A I felt bad about him getting arrested. When I got him
3 out of jail he told me, Look, don't worry about it.
4 Everything will be all right. I know you didn't mean to do
5 that to me.

6 Q Things like that just happen in the normal course of the
7 day, people get arrested for gun possession, for a gun they
8 never owned themselves?

9 A Yes. It's not a normal course of the day, but he took
10 the weight, the kid.

11 Q He was a stand-up type of guy?

12 A Yes, he was.

13 Q And you killed some guy who was a concrete plant owner?
14 That's in your plea agreement.

15 A Killed him?

16 Q Or you planned to kill him?

17 A Yes.

18 Q Does this guy have a name?

19 A Don't know.

20 Q Don't know. Do you even know why you wanted to kill him?

21 A Joe Gissario Junior come to me that the guy cheated his
22 father out of some land in Long Island, that they built
23 buildings on, there was an ongoing beef and situation.

24 The guy went to people in the Colombo family behind
25 their back and there was an ongoing beef and the father

1 couldn't take it no more, he was being ruined financially and
2 he wanted the guy killed.

3 Q So you were going to kill a guy who had done nothing to
4 you but was being rude financially to somebody else?

5 A I was approached by a friend to help him out because the
6 guy was ruining his family financially and really taking
7 advantage and doing bad, evil things to them.

8 Q Did you ever say, Hey, guys, that's what civil court is
9 about? Sue the guy?

10 A They did.

11 Q They did.

12 A Yes, they had him in civil court.

13 Q And instead of waiting for it to be resolved in the
14 courts, you said, Let's go kill him?

15 A I didn't say anything like that. They said they wanted
16 him killed.

17 Q And agree to participate?

18 A Yes, I did.

19 Q And then there was another guy somewhere around 2000,
20 somewhere around there, who is just known as John Doe Number
21 Three that you pled guilty to?

22 A In 2000?

23 Q I don't know what year it is, but you agreed to kill John
24 Doe Number Three, a --

25 A 2003, Rossario Liotta for killing JJ in Palm Beach,

1 Florida in Boca Raton, yes, that was me. Rossario Liotta.

2 Q What about the murder conspiracy to kill Gus Boulis?

3 A Gus Boulis?

4 Q Boulis?

5 A I didn't participate in that. I backed out of it.

6 Q But Mr. Moscatiello approached you about doing the
7 murder, correct, Tony Moscatiello?

8 A Yes, he did.

9 Q He told you he would pay you \$100,000 if you would do it?

10 A Yes.

11 Q And the whole idea was to kill the partner of someone who
12 owned a gambling boat?

13 A Yes.

14 Q And that was --

15 A I have to explain that answer.

16 Q And the owner of the gambling boat wanted to just take
17 over his partner's full share?

18 A Can I explain that answer?

19 Q You can on redirect.

20 MR. NORRIS: Judge, I ask to allow the witness to
21 explain.

22 MR. FARBER: I didn't ask him a question about what
23 happened.

24 THE COURT: You may continue to question.

25 MR. FARBER: Thank you, Judge.

1 Q And then Joe Gissario enlisted you to help rob and
2 kill -- this was something to do with a dispute over the
3 unionization of parking entrances for a building that was
4 being built by Gissario's father; do you recall that?

5 A That was with the concrete plant, yes.

6 Q That is the concrete plant guy?

7 A Yes.

8 Q This is a guy then that he's leaving his house one day,
9 correct, and you jump him?

10 A He walked out of his door. Joe Gissario threw him to the
11 ground. He proceeded to pull a pistol out and shoot the guy
12 and I made him stop because the guy's wife came out the door
13 into the driveway.

14 Q She came out and she was screaming hysterically?

15 A Yes, she was.

16 Q You were assaulting and trying to kill her husband right
17 there in front of her?

18 A Yes.

19 Q Are you weren't concerned about her feelings, however?

20 A If I wasn't concerned about her feelings?

21 Q No. The reason you told him to stop was because there
22 was a witness there all of a sudden; you were concerned about
23 your own self preservation in getting away?

24 A Well, if I was really concerned about my own self
25 preservation they would both be dead and nobody would have

1 yelled and screamed and pushed alarms and did it in the middle
2 of the street. I said, Let's go. We got in the car and left.

3 Q You just said "let's go" and left?

4 A Yes.

5 Q Nothing to do with the fact she was screaming
6 hysterically drawing attention to the fact you were beating
7 and shooting her husband outside their house?

8 A He wasn't shot. He was just thrown down to the ground.

9 Q You were going to shoot him?

10 A Yes.

11 Q You had guns out?

12 A Yes.

13 (Continued next page)

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1 EXAMINATION CONTINUES

2 BY MR. FARBER:

3 Q How many times had he been beaten at that point in time?

4 A Excuse me?

5 Q You say he had been thrown down to the ground?

6 A That's all he was, was thrown down to the ground.

7 Q And stomped him?

8 A No.

9 Q No kicks?

10 A No, not to my knowledge. Might have got kicked by Joe
11 Gisario.

12 Q Then, again, we have the murder conspiracy of Angelo
13 Mugnolo?

14 A Yes.

15 Q And there was a whole meeting about that at the Fountain
16 Bar to plan it?

17 A Yes.

18 We just went over this. That was the murder by the
19 church.

20 Q Right.

21 But they -- but you didn't just drop it because he
22 lived across the street from the church?

23 A No.

24 Q Instead, you moved where he was going to get shot to a
25 different location?

1 A It wasn't planned out yet.

2 Q Was the man shot?

3 A He was shot, yes, he was.

4 Q And, in fact, he was gunned down as he was getting out of
5 his car, correct?

6 A Yes.

7 Q And the only reason he didn't die is because he was able
8 to get inside a bagel shop that was open?

9 A Yes.

10 Q And hide and ask for protection and then you and everyone
11 else sped off?

12 A Me? I wasn't involved in the shooting.

13 Q You weren't involved in that shooting?

14 A No.

15 Q Someone else did the shooting?

16 A Yes.

17 Q What about Robert Orena? You killed him, isn't that
18 correct, because he hung out with one of your ex-wives?

19 A I did not kill Robert Orena.

20 Q In fact, as you were trying to -- going up to kill him,
21 his only weapon was his pager and he threw it at you, as
22 protection?

23 A I never killed Robert Orena.

24 Q You never told the government about that murder?

25 A I never killed Robert Orena. I don't know what you're

1 talking about.

2 Q Did you ever shoot Joseph Panzarella for the same
3 offense, that he had been with one of your ex-wives?

4 A I shot Joseph Panzarella? I think you are mistaken. I
5 never shot Joseph Panzarella.

6 Q What about a double murder behind the Lindenwood Diner?

7 A I don't know anything --

8 Q Committed the crime with Frank Boccia, Andrew Calvacante
9 and Joey Calvacante. You killed a young man and his
10 girlfriend and burned their bodies?

11 A No.

12 Q No?

13 A No.

14 Q So if the word was out in the street that you guys
15 committed that particular crime, that would just be wrong?

16 A I've never heard that ever stated before today.

17 Q Never heard that before?

18 A No.

19 Q All the other murders you know about, the ones you pled
20 guilty to?

21 A Any murder that I was involved with or conspired to do or
22 did, I proffered to the government 100 percent truthful and
23 honestly to every fact of what I do. If it was one murder or
24 a hundred murders , I would have proffered to it.

25 I did not kill the people you just mentioned. I did

1 not have anything to do with it.

2 Q You said you committed perhaps thousands of crimes?

3 A Yes, I have.

4 Q Do you even know all the crimes you committed?

5 A I would know who I killed or conspired to kill. That's a
6 pretty top-notch, top shelf crime.

7 Q You had a pretty heavy heroin habit -- heavy heroin
8 problem at some point?

9 A Yes, I did.

10 Q You were also drinking a lot?

11 A Yes, I did.

12 Q And you advised others to commit murder also to solve
13 their personal problems?

14 A Advised others to commit murders?

15 Q For example, Mr. Val Nucci? He had done a robbery of a
16 local store and this caused some sort of problem within the
17 organized crime family?

18 A I never advised him to kill anyone.

19 Q You didn't advise him that he'd be best to kill his
20 coconspirator, to make the family happy?

21 A No.

22 Q You don't remember telling them that in the proffer
23 sessions?

24 A I never, ever told him to kill anybody.

25 Q Mr. Carneglia never committed any murders with you, is

1 that correct?

2 A No, he did not.

3 Q You testified yesterday that you met him sometime in the
4 1970s.

5 Do you recall that?

6 A I met him as a young boy, 13, 14 years old.

7 Q And you started to the do this retagging of automobiles,
8 either to chop and -- to chop them up or retag them?

9 A I would just drop the cars off. Once I helped him tag a
10 '78 or '79 baby blue four door Lincoln Continental Town Car
11 that had to go to Sally Quack in Florida.

12 Q This again was in the 70s?

13 A Yes.

14 Q You also talked about in the 1970s having together with
15 his brother gone to the barn and take marijuana and get
16 fronted some marijuana for you to sell?

17 A I picked marijuana up there and helped them unload
18 Winnebagos there into the barn, yes.

19 Q And, again, this was in the 1970s?

20 A Yes.

21 Q You also testified here yesterday that you testified at a
22 prior proceeding in 1987.

23 Do you recall saying that?

24 A A prior proceeding? Yes. In federal court?

25 MR. FARBER: Judge, the jurors are raising their

1 hand.

2 THE COURT: Do you want to take a break?

3 A JUROR: I have to use the restroom, please.

4 THE COURT: Oh, of course.

5 I apologize.

6 Everybody take a recess.

7 A JUROR: I'm sorry. I couldn't hold it anymore.

8 (The following occurred in the absence of the jury.)

9 THE COURT: All right. Take ten, please.

10 Thank you.

11 (Recess taken.)

12 (The following occurred in the absence of the jury.)

13 THE COURT: All right. Bring in the witness,

14 please.

15 Bring in the defendant, please.

16 Bring in the jury, please.

17 (The witness is present.)

18 (The defendant is present.)

19 (Jury present.)

20 THE COURT: Be seated, please.

21 Continue, please.

22 (Continued on next page.)

23

24

25

1 EXAMINATION CONTINUES

2 BY MR. FARBER:

3 Q When we left off you were just telling us about the
4 marijuana and car crimes you committed in the 1970s you said
5 with Charles.

6 Do you recall that testimony?

7 A Yes.

8 Q Then I asked you if you in fact had testified at a prior
9 proceeding in 1987, having been called down to testify as a
10 defense witness?

11 A Yes.

12 Q And you testified here yesterday that the testimony you
13 gave in that proceeding was truthful?

14 A Part of it.

15 Q Just part of it?

16 A Yes.

17 Q Yesterday you said it was truthful entirely.

18 A I did not say that.

19 MR. NORRIS: Objection.

20 Q In the 1970s, you described Charles as someone who was
21 using drugs and getting drunk with you?

22 A Yes.

23 Q And you got drunk with him on a regular basis?

24 A No, I did not.

25 Q Was he getting drunk on a regular basis?

1 A He drank on a regular basis.

2 Q Was he a heavy drinker?

3 A He drank.

4 Q What was his favorite type of alcohol?

5 A Cutty Sark.

6 Q Now, in addition to committing murders, you committed
7 numerous assaults.

8 A Yes.

9 Q And, in fact, based on your description earlier today, is
10 it fair to state that it was hundreds of assaults? Many
11 hundreds?

12 A I couldn't put a number on it.

13 Q Do you recall in the 1970s stabbing someone by the name
14 of Frank Pepitone?

15 A Yes, I do.

16 Q And, again, you stabbed him without any hesitation?

17 A I stabbed him.

18 Q You stabbed him.

19 And you stabbed him because he -- you needed to
20 teach him a lesson. He had started in with you?

21 A Can I explain?

22 Q Yes.

23 A I stabbed him because he hit a member of my family,
24 tossed him out of the street, threw him on the floor, kicked
25 him around, told him never to come back again.

1 Q At what point did you plunge the knife into him?

2 A Later that evening.

3 Q You had already beaten him up. Later that evening you
4 stabbed him?

5 A I didn't beat him up already. I went there. I stabbed
6 him.

7 Q I thought you just said earlier that you had thrown him
8 out of the house, punched him around a little bit and then
9 later in the evening you went out and stabbed him again?

10 A I said that he took a member of my family and he tossed
11 them out of the bar and beat them up on the sidewalk, kicked
12 them around.

13 Q He did?

14 A Exactly.

15 Q Was that because the member of your family was acting up
16 in that particular establishment?

17 A No. That was because of they had an ongoing rift between
18 them.

19 Q Was the member of your family stabbed?

20 A No, he was not.

21 Q He was just pushed out the door and thrown to the ground?

22 A He was beat up pretty good.

23 Q That was a personal insult to you and your family,
24 correct?

25 A He didn't get stabbed because it was a personal insult.

1 He got stabbed because his friends were there. They were
2 trying to get to me and a knife came out and he got stabbed.

3 Q This knife just magically appeared from where?

4 A I don't know. I think I might have took the knife away
5 from him.

6 Q You were always armed?

7 A Most of the time.

8 Q In addition to guns, you had knives on you?

9 A Some of the times.

10 Q You didn't think to use one of your own knives?

11 You think you took the knife away from this man?

12 A I might have not had a knife on me that day.

13 Q When you stabbed him, this was inside a crowded bar?

14 A Yes.

15 Q This was the Circus Bar located on Jamaica Avenue and
16 84th Street?

17 A Jamaica Avenue and 89th Street.

18 Q 89th Street. I stand corrected.

19 And when you stabbed him, did you have any concern
20 that the stab may -- the stab wound might be life threatening
21 in nature?

22 A Not at the time, no.

23 Q And you also assaulted somebody who was the -- worked in
24 a paint store, Liberty Paint, located in Ozone Park?

25 A No, I never assaulted anybody in Liberty Paint in Ozone

1 Park.

2 Q You didn't tell Gisario you beat up the owner there
3 because your sister-in-law had a dispute there?

4 A No. I did not beat anybody up in Liberty Paint in Ozone
5 Park.

6 Q You don't recall telling that to the agents during your
7 proffer sessions?

8 A I told Joe Gisario to go to Liberty Paint and tell the
9 guy not to get disrespectful with my brother-in-law's wife
10 ever again. They were friends. There was no reason to beat
11 the guy up.

12 Q Did the guy get beaten up?

13 A No, he did not.

14 Q He did not?

15 A Not to my knowledge.

16 Q So you thought telling this guy don't start in with my
17 sister-in-law anymore, don't be disrespectful, that was
18 something that you needed to confess to the prosecution in
19 coming clean about all your crimes?

20 A It was something that I remembered and I told them about
21 it.

22 Q You told them oh, my sister-in-law got disrespected and I
23 told the guy don't do it ever again.

24 That is something the government wanted to hear?

25 A It was something I remembered and I told them.

1 Q Do you remember assaulting a pot dealer with Joe Gisario
2 sometime in 1999 up in Williston Park, New York?

3 A They robbed a kid in Williston Park, New York. I didn't
4 assault the kid. The kid was never assaulted by me. I don't
5 know if they assaulted him.

6 Q What about the pot dealer being assaulted in his house
7 and having his car stolen?

8 A I don't know of the guy getting assaulted. I was not
9 there on the scene.

10 Q You told this to the government as well during your
11 proffer sessions, did you not?

12 A Yes, I did.

13 Q You'd know nothing about it?

14 You are saying you didn't -- you weren't involved in
15 it?

16 A I know about it. I was involved in it, and I didn't go
17 in the house and assault the guy.

18 Q What about threatening Brian O'Neil and Chris McCabe, who
19 were rival drug -- marijuana dealers on Long Island who were
20 interfering with Robert Ciprianni's selling of marijuana?

21 A Yes.

22 Q And you threatened them, that you would beat them down or
23 worse, if they didn't stop trying to steal the locations for
24 the sales?

25 A Yes.

1 Q And they backed down?

2 A Yes.

3 Q They were aware of your power?

4 A Yes.

5 Q All you had to do was threaten them and these drug
6 dealers backed off?

7 A Yes.

8 Q And then you assaulted another drug dealer who was
9 selling pot by a newsstand owned by JJ Gurino?

10 Do you recall that?

11 A Yes.

12 Q And this newsstand was by the deli known as Ragtime
13 Delicatessen?

14 A Yes.

15 Q And as you were beating him up, you tried to bundle him
16 into one of your cars?

17 A Yes.

18 Q You were going to work him over pretty good?

19 A He ran away from the location where he was getting beat
20 up. We brought him back to Ragtime.

21 Q So he disrespected you by running away from being beaten
22 up?

23 A No. He disrespected us by selling drugs over-the-counter
24 out of Ragtime Delicatessen's newsstand.

25 Q And the police came upon you when this was happening?

1 A Yes.

2 Q And you were able to convince the police to leave and not
3 help this guy?

4 A No. We told the police if they were doing their job,
5 that this wouldn't be happening.

6 Q So the police says, you are right, go ahead, beat him up?

7 A No.

8 Q The police left, correct?

9 A Yes.

10 Q You continued to beat him up?

11 A Right after they left.

12 Q Then on another occasion do you recall being with Kevin
13 McMahon and Danny Fama and assaulting two guys over a pot deal
14 gone bad?

15 A Kevin McMahon and Danny Fama? Assaulting two guys? No,
16 I don't remember that.

17 Q You indicated to Kevin you wanted to shoot them but he
18 stopped you?

19 A I don't remember that.

20 Q You don't remember that one.

21 What about when Vinny Saporito, do you remember him?

22 A Yes.

23 Q He worked in your catalytic converter business?

24 A Yes.

25 Q You found out that he was stealing money from your

1 business?

2 A Yes.

3 Q That he had opened up a fake bank account in the name of
4 Motor City and was depositing checks from your business
5 account into that?

6 A Yes.

7 Q What did you do to him?

8 A I have to explain that.

9 Q Go ahead.

10 A I was incarcerated at the time when this all took place
11 in the Nassau County jail and Vinny was running my catalytic
12 converter business for me. I come to find out that Vinny was
13 hanging with Allen that was a close associate of Charles
14 Carneglia. Vinny took it upon himself to open a fake bank
15 account with my brother's ID that was diseased in 2000. He
16 was taking checks from my wife and depositing them in the
17 bank, the same bank but a different branch, and stealing money
18 out of the business bank account.

19 They also together robbed a couple of truckloads of
20 catalytic converters from my wife behind my back while I was
21 incarcerated.

22 There was nothing I could really do to him at the
23 time. But when I found out I was very angry with Vinny.

24 Q Did you take care of him at some later date?

25 A There was no later date to take care of him. I was

1 already decided that all my friends just totally lost respect
2 for me and were going to rob me, call me a rat, and do
3 whatever they wanted with me. So I decided to cooperate with
4 the government and here I sit today.

5 Q So you decided to cooperate with the government because
6 you felt that everyone was disrespecting you, robbing you
7 blind?

8 A No. They put a rat wire on me. They hit my wife. They
9 did a lot of different things. Killed JJ. A lot of different
10 events led up to this.

11 Q Would you describe your reason for cooperating was
12 because your vengeful?

13 A No.

14 Q You weren't angry that you feel everyone was betraying
15 you, calling you a rat?

16 A I don't make decisions out of anger. Pretty calculated
17 when I make a decision to do something.

18 Q You are a calculating type of individual?

19 A No. But I think before I make a decision. I try to.

20 Q You heard people that accused you of attempting to blow
21 up the boardwalk at 116th Street in Rockaway?

22 A I've never heard that.

23 Q You never heard that.

24 Didn't the agents ask you about that during your
25 proffer sessions?

1 A I don't remember anything like that. I mean, it could be
2 but I don't remember trying to blow up a boardwalk.

3 Q In fact, you were accused of trying to blow up Charles's
4 house by throwing a grenade at it?

5 A Charles accused us of that.

6 Q You talked about Chris McMahon.

7 A Can I answer that question?

8 THE COURT: Yes. Go ahead.

9 A Charles thought that somebody was going to throw a
10 grenade at his window and he zip-screwed plywood to the
11 inside of the windows in his house and his bedroom. And I
12 asked him why he did that and he told me that he thought
13 somebody was going to throw a grenade in his house. Later I
14 come to find out he thought that I was going to throw a
15 grenade at his house, which never happened, never took place
16 and was never even thought about.

17 (Continued on next page.)

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1 CONTINUING CROSS-EXAMINATION

2 BY MR. FARBER:

3 Q Things were not good between you and Charles?

4 A No, sometimes things were very good between Charles.
5 and I.

6 Q Not good now?

7 A I don't know how they are now. I haven't seen Charles
8 since 1999.

9 Q You mentioned something about an individual by the name
10 of Chris McMahon, beating him up at the AJ Bar?

11 A Yes.

12 Q You beat him down in front of everyone?

13 A Yes, I did.

14 Q You dragged him outside the bar and without regard to who
15 was present, you beat him down in the parking lot?

16 A Yes, I did.

17 Q You did this by yourself?

18 A No, I had two friends with me and DiBernardo was with me.
19 Chris McMahon's friends were in the bar when this all took
20 place.

21 Q You were able to beat him up pretty good?

22 A Yes.

23 Q Then at some point in time you ordered him to come over
24 to your area. When he arrived you and Andre robbed him of
25 \$2,000?

1 Q I don't understand that?

2 A I never robbed Chris McMahon of anything.

3 Q You never took \$2,000 off of him?

4 A No.

5 Q Do you recall ever telling him if he was to ever cross
6 you again, refused to do your bidding, that you will stick a
7 steel rod with barbed wire up his ass, rip out his insides?

8 A No, I don't remember that.

9 Q You never said that?

10 A I don't remember.

11 Q Might have said that?

12 A I don't remember.

13 Q Sound like something you would say?

14 A I just don't remember.

15 Q Just don't remember.

16 A I don't remember saying that to Chris McMahon.

17 Q Yesterday you talked about the incident at the Esquire
18 Diner?

19 A Yes.

20 Q You talked about seeing Charles that night and then
21 Charles going downstairs to the rest room?

22 A Yes.

23 Q Then there was a commotion. You heard some noise
24 downstairs?

25 A Could I explain that answer?

1 Q Did you hear a commotion, yes or no?

2 A Yes.

3 Q I believe you said you heard someone call for help?

4 A Yes.

5 Q You testified yesterday you believed it was Charles
6 calling for help?

7 A Yes, it sounded like Charles' voice.

8 Q When you got downstairs, there was some sort of physical
9 confrontation going on between Charles and Officer Gelb,
10 correct?

11 A Yes.

12 Q Charles turned to you and said "Call the police"?

13 A No, Charles didn't say "Call the police" at that time.

14 Q Did Charles tell you to call the police?

15 A No, Charles never told me to call the police.

16 Q Never told you. You remember meeting with the agents in
17 this case on July 5th, 2006 proffering?

18 A I met with the agents but I don't know what date or what
19 I proffered to on that date.

20 Q Do you remember being asked at some point during the
21 proffers about the murder of Officer Gelb?

22 A Yes.

23 Q Do you recall telling them that Charles told you to call
24 the police but you disagreed with him?

25 A That wasn't downstairs. He was yelling he was going to

1 get the guy arrested upstairs in the center of the diner. He
2 didn't tell me to call the police. He told me he was getting
3 the guy arrested.

4 Q I ask you to take a look, page 2 of this document --

5 THE COURT: What is it, please?

6 MR. FARBER: Bates stamp 55 and 56 from the
7 discovery provided by the government.

8 THE COURT: 3500?

9 MR. FARBER: 3500 number five, Bates stamp 55 and
10 56, dated July 5th, 2006.

11 MR. NORRIS: For the record, 3500 PZ-5.

12 Q Please take a look at that and let me know when you're
13 finished.

14 (Pause.)

15 A What's your question?

16 Q Does that refresh your recollection as to whether or not
17 you told the agents back in 2006 that Charles told you to call
18 the police and you refused?

19 A I didn't write this document. That isn't what I
20 remember.

21 Q So, if the agents were to write that, they made that up;
22 is that your testimony?

23 A They could have made a mistake --

24 THE COURT: Strike it.

25 Q You do recall Charles telling you to call -- that he

1 wants the police called?

2 A I remember Charles saying he was going to get the guy
3 arrested.

4 Q He wanted him arrested because he felt something was done
5 wrong to him?

6 A Yes.

7 Q When you were downstairs, am I correct it was you who was
8 knocking Officer Gelb to the floor?

9 A I got to explain that answer.

10 Q Yes or no, sir.

11 A Can I explain that answer?

12 Q Answer the question.

13 THE COURT: Yes, go ahead, explain.

14 A When I ran down the stairs, there was a heated
15 confrontation going on and a struggle. Charles was my friend
16 at the time who was having the struggle with him, was the guy
17 getting beat down. I hit the guy, knocked him down to the
18 floor to help Charles so he can get away. That's what
19 happened.

20 Q The guy was standing when you got downstairs?

21 A Yes, he was.

22 Q Charles had not knocked him to the floor?

23 A I did.

24 Q Charles had not punched him from what you could see?

25 A No, Charles was just yelling for help.

1 Q Charles is just yelling for help?

2 A Yes, he was.

3 Q And --

4 A "Get this guy off me."

5 Q You came in and punched him?

6 A Yes, I did.

7 Q You knocked him to the ground?

8 A I did.

9 Q You're the one that kicked him?

10 A Yes, I did.

11 Q You're the one who stomped him.

12 A I kicked him.

13 Q Eventually, it was you who fled the diner?

14 A Yes, I left the diner. I wasn't going to stick around
15 the diner after doing that, knowing the repercussions.

16 Q It was Charles who stayed at the diner?

17 A Well, the only reason Charles stood at the diner --

18 Q Did Charles stay at the diner?

19 A I need to explain that answer.

20 Q Sir, you don't know what Mr. Carneglia's state of mind
21 was, do you?

22 A I do.

23 Q You were in his head?

24 A Can I explain it?

25 THE COURT: Just answer yes or no, if you can.

1 THE WITNESS: I can't.

2 THE COURT: You have a pending question?

3 MR. FARBER: I'll do a new one, Judge.

4 THE COURT: You withdraw the question?

5 MR. FARBER: Withdraw the question.

6 THE COURT: Pose a question.

7 Q Charles Carneglia got arrested that night?

8 A Yes, he did.

9 Q He got arrested at the diner?

10 A Yes, he did.

11 Q He was at the diner when the police arrived?

12 A Yes, he was.

13 Q You were not?

14 A No, I was at his brother's house.

15 Q Prior to you fleeing the diner, you heard Charles calling
16 out in general "I want this man arrested," referring to
17 Officer Gelb; yes or no?

18 A I need to explain that answer.

19 Q Sir, yes or no?

20 THE COURT: You can say "Yes," "No", or "I can't
21 answer the question."

22 THE WITNESS: I can't answer that question.

23 Q You can't answer that question?

24 A No.

25 Q You were loyal to Charles?

1 A Yes.

2 Q You said you beat up Officer Gelb because you would do
3 anything you need to do to protect your friend?

4 A Yes.

5 Q You would come to his aid in a heartbeat?

6 A Yes, in that situation.

7 Q At that point in time?

8 A Yes.

9 Q Whether or not Charles asked to you do something, if you
10 thought it would help Charles, you would do it back then?

11 A Yes.

12 Q You previously testified about a stabbing out by the Blue
13 Fountain Diner?

14 A Yes.

15 Q You weren't there that night, were you?

16 A No, I was not.

17 Q Andrew Curro who told you the sit-down, he wasn't there
18 that night either, was he?

19 A No, he was not.

20 Q You were not present for this sit-down, were you?

21 A No, I was not.

22 Q In addition to the murders that you talked about, the
23 assaults, you made a lot of money from various acts of
24 robbery, correct?

25 A Excuse me?

1 Q You made money from robbing, robberies?

2 A Yes.

3 Q You initially started off stealing cars?

4 A Yes.

5 Q You told the story yesterday about some wise guy coming
6 in and stealing tires from you when you had your own shop; do
7 you recall that?

8 A He wasn't a wise guy.

9 Q Just some guy in organized crime?

10 A He was an associate at the time.

11 Q He stole your tires?

12 A No, he took the tires on the pretense he was going to
13 bring the money back and he never brought the money back.

14 Q Sort of stealing, isn't it?

15 A Sort of like sneak-thiefing you.

16 Q A sneak-steal?

17 A Yes.

18 Q Made you feel mad?

19 A It made me feel insulted.

20 Q You didn't like to be the victim of a crime, did you?

21 A It's not that. If I took something from somebody, I
22 would pay them.

23 Q You paid for everything you have taken over the years?

24 A Not what I stole.

25 Q You stole more than you bought; isn't that correct?

1 Is that the assessment?

2 A I couldn't put a value on that.

3 Q You stole millions of dollars from armored cars, correct?

4 A Yes, I did.

5 Q That is more than you ever spent legitimately, correct?

6 A I guess, yes.

7 Q In the 1970s, early '70s, you and Carl DeMario set up the
8 robbery of a night deposit box in a lumber yard where
9 Mr. DeMario worked?

10 A Yes.

11 Q There was an actual robbery. It was you and Albert
12 Signoli (ph)?

13 A Yes.

14 Q After the robbery, Mr. De Mario's boss accused him of
15 being involved in that robbery, correct?

16 A Yes.

17 Q Mr. DeMario offered to take a lie detector test to prove
18 his innocence?

19 A Yes.

20 Q That caused you to be very angry, Mr. De Mario's
21 willingness to take a lie detector test.

22 A Yes.

23 Q So you went to his home to beat him up?

24 A No, that's not when I had the altercation with Carl
25 DeMario. The altercation was years later.

1 Q Do you recall a couple of years later you insulted
2 assaulted him with a gun?

3 A No.

4 Q You don't remember chasing him into his home?

5 A I remember him having the gun and me chasing him into his
6 home.

7 Q You chased him to his home with him holding the gun?

8 A Yes.

9 Q Do you recall testifying yesterday about beating him up
10 in his home and his mother, your mother-in-law trying to
11 protect him?

12 A Yes.

13 Q She raised the telephone to try to bang it on you to get
14 you to stop beating up her son?

15 A She hit me in the head with the phone.

16 Q She hit you in the head with the phone?

17 A Yes.

18 Q You turned around and you gave her two black eyes and
19 knocked her out cold?

20 A Yes.

21 Q Your mother-in-law?

22 A I didn't know it was her behind me hitting me with the
23 phone. I just turned around and acted out of a defensive
24 posture.

25 Q In that defensive posture, that one punch sent her flying

1 across the floor with two black eyes and being knocked out
2 cold?

3 A Yes.

4 Q You're sure you didn't pummel her a little bit for daring
5 to strike you to protect her son?

6 A No, I hit her one time.

7 Q Just one time?

8 A Yes.

9 Q Powerful punch?

10 A I hit her one time.

11 Q In July, 1980, you, together with Andrew Curro, Joey
12 Calvacante, Steve Zuccaro, Frank Boccia, did a robbery of an
13 armored car belonging to the company I B I, correct?

14 A No.

15 Q You didn't?

16 A Steven Zuccaro wasn't there.

17 Q Was everyone else there?

18 A Yes.

19 Q You grabbed one of the guards and pointed a gun to his
20 head?

21 A Yes.

22 Q You were armed?

23 A Yes.

24 Q In fact, whenever you did these armored car robberies,
25 you had a loaded gun?

1 A Yes.

2 Q Had you placed these guards inside their truck and
3 handcuffed them?

4 A Yes.

5 Q Then gave them each a \$100 bill after you wiped it off
6 with alcohol to remove the fingerprints?

7 A Yes.

8 Q You thought that was funny?

9 A Funny? No, I thought it was a gesture to show them
10 forget what happened.

11 Q You were taking the money they were sworn to uphold to
12 protect and you gave them back \$100? You weren't trying to
13 humiliate them?

14 A That was Andrew's idea, the hundred dollars bills. I
15 went along with it. It didn't matter to me.

16 Q You guys laughed, thought it was funny?

17 A Might have been funny at the time.

18 Q You also wanted to scare these guards, correct?

19 A Yes.

20 Q You took each one of their driver's license and said "Now
21 I know where you guys live," do you remember saying that to
22 them?

23 A I need to explain that answer.

24 Q Sir, a simple question. Did you take their driver
25 licenses?

1 A Yes.

2 Q Did you tell them "I know you where you live"?

3 A Yes.

4 Q These guards names were Kessler and Higgins; do you
5 recall those names?

6 A Yes.

7 Q You stole approximately \$310,000 from that robbery?

8 A Yes.

9 Q A lot of money?

10 A Yes.

11 Q Even in today's dollars.

12 A Yes.

13 Q Later that same year, December 26th, another I B I
14 company truck is robbed, correct?

15 A Yes.

16 Q Turns out it's the same two guards again?

17 A Yes.

18 Q They caved in immediately when they saw you.

19 A Yes.

20 Q You stole the money again?

21 A Yes.

22 Q What was your take on that one?

23 A 750,000.

24 Q Between the two robberies, you stole over \$1,000,000
25 alone.

1 A Around a million dollars, yes.

2 Q Did you go to jail for these?

3 A Yes.

4 Q These were the ones you got convicted of?

5 A Yes.

6 Q We were talking about the trial, 1987, where you come
7 down to give truthful testimony?

8 A '86, '87.

9 Q You said you gave part truth, not all the truth?

10 A You know, I took the Fifth Amendment.

11 Q You took the Fifth Amendment?

12 A Yes.

13 Q Sir, do you recall being questioned by then-Assistant
14 U.S. Attorney Diana Giacalone?

15 A Yes.

16 Q She questioned you about your involvement in these
17 robberies?

18 A Yes.

19 Q She questioned you about the circumstances surrounding
20 your arrest?

21 A I don't recall.

22 Q Sir, you had taken an oath to tell the truth there,
23 correct, at that trial?

24 A Yes.

25 Q A courtroom like this type of courtroom?

1 A Yes.

2 Q Same type of proceeding, a trial with a jury?

3 A Yes.

4 Q Ms. Giacalone characterized your testimony as a pack of
5 lies, didn't she?

6 A I don't recall.

7 Q She accused you of dancing around the truth.

8 A I don't know. I don't have that testimony in front of me
9 to refresh my memory. So, I wouldn't -- I can't answer that
10 question.

11 Q You were present when she was questioning you on
12 cross-examination.

13 A That was 20-something years ago. I don't remember
14 exactly what took place and every word I said.

15 Q Didn't she say that you were confronted with a series of
16 facts that you couldn't deny so you made up explanations for
17 them?

18 A Like I said, I don't recall my answers in that trial,
19 every answer.

20 Q In fact, you were questioned about the fact that a scale
21 that was used to measure heroin was found inside your
22 apartment at the time of your arrest; do you recall that?

23 A I was involved in heroin trafficking during that time,
24 yes. They did find a scale in that apartment.

25 Q The scale was hidden behind a big piece of furniture in

1 front of a small closet.

2 A Yes.

3 Q Your explanation at the trial for that scale was that you
4 had taken it from somebody else because you didn't want them
5 to be dealing drugs?

6 A I don't remember my answer to that question.

7 Q They also found bullets in your house; do you recall that
8 when you got arrested?

9 A They might have found bullets. I don't remember.

10 Q You said you don't know how the bullets got there,
11 correct?

12 A I don't remember my answer to the question. I don't even
13 remember if bullets were found there.

14 Q You suggested that Andrew Curro slept over your house on
15 a regular basis and maybe he accidentally left the .38 caliber
16 bullets there?

17 A I don't remember that question or the answer.

18 Q Was the testimony you gave to the government attorney
19 truthful or false?

20 A I don't remember what questions I was asked and the
21 answers that I gave so I can't tell you what was true, what
22 was false.

23 Q You just told this jury that you told the truth and not
24 all the truth when you testified under oath.

25 A That's what I said.

1 Q When you said that, you must have had some idea in your
2 minds what was truthful and what was not.

3 A Like I said, I don't remember all the questions. I mean
4 I don't remember what happened 23 years ago, every question,
5 every answer. If you have testimony and you want me to look
6 at it, see if I could recollect, I'll try to do that.

7 Q Eventually you got out of jail for those robberies,
8 correct?

9 A Yes, I did.

10 Q You were on parole?

11 A Yes, I was.

12 Q One of the requirements for you are being on parole is
13 that you had to gain lawful employment?

14 A Yes.

15 Q You immediately got a fake job?

16 A I got a job on construction which I reported to and
17 worked every day until I got the marijuana business started,
18 sir.

19 Q Isn't it a fact you got a no-show job?

20 A No, I did not have a no-show job.

21 Q You're sure?

22 A Positive.

23 Q Job where you didn't have to show up? You immediately
24 went back to --

25 A Absolutely not. I worked on construction at 80-02 Kew

1 Gardens Road, reported for work every day and took care of my
2 business very carefully.

3 Q Isn't it a fact --

4 A I was under surveillance probably from parole people. I
5 watched everything I did.

6 Q Isn't it a fact as soon as you got out of jail, you found
7 out that you had been traded to the Gambino crime family?

8 A No, I learned of that fact while I was in jail.

9 Q It was expected upon your release that you were to
10 immediately report to the family to fulfill your obligations
11 as an active member of organized crime?

12 A I wasn't a member. I was an associate and my situation
13 called for me to report to Johnny Carneglia, Charles' brother.

14 Q You were supposed to report to the bidding of the family
15 for whatever purpose anyone in the family needed you to do?

16 A My purpose was to report to John Carneglia, not to anyone
17 in the family.

18 Q You were assigned to Mr. Carneglia?

19 A Yes.

20 Q Did you report upon being released?

21 A Several weeks later; yes, I did.

22 Q So, you violated the conditions of your parole by
23 immediately associating with organized crime?

24 A Yes, I did.

25 Q But you said you had a legal job?

1 A I did have a legal job.

2 Q No one in the organized crime family managed to secure
3 for you a no-show job so you could actually be available for
4 them to do illegal activity?

5 A They wouldn't give me a no-show job. If I took the job,
6 I had to report to work because 6-A was under receivership of
7 the United States Government. They were running the union at
8 the time. I reported to work on the construction site. I
9 worked. There was times I could get away and conduct my
10 marijuana business without being detected, but I did show up
11 at work and worked.

12 Q Sir, more than one union was under mob control when you
13 got out of jail; is that correct?

14 A I don't know if the union I worked for was under mob
15 control and was in receivership to the government and the
16 Colombo family was controlling the union that I belonged to
17 and Ralph Scopo, Senior was the guy that got me the job in the
18 union. His son Joey got me my union book through John
19 Carneglia.

20 Q You got your union book as soon as you got out of jail
21 through a connection with Joe Scopo?

22 A No, I didn't get my union book until after I put a
23 certain amount of time in at working on the job every day,
24 reporting to work and putting so many hours in. Then I got my
25 union book and then I received my benefits.

1 Q You got your benefits?

2 A I got my benefits after, I think, several hundred hours
3 of working every week.

4 Q This union job you got, this was at the expense of
5 someone who legitimately would have been otherwise qualified
6 for that job?

7 A Oh, I was not unqualified for the job. I mean I did the
8 labor. I worked. When I became a driver on the job, I
9 resigned from the union so I wouldn't create any problems for
10 the union and went to work for Albert Geller directly.

11 Q You wanted to protect the union?

12 A No, I wanted to protect myself by not getting violated
13 from the federal government while I was on parole.

14 Q Isn't it a fact you said earlier today that as soon as
15 you got out of jail, that you planned to do an armored car
16 robbery as soon as an opportunity arose?

17 A I was looking to get on my feet as soon as I got the
18 opportunity. I would have done something, anything to gain
19 money. Marijuana was probably the easiest route. I didn't
20 want to really go out and commit armed robberies. I would
21 have got a ton of heat for it.

22 Q You didn't want to commit armed robberies, but yet you
23 continued to commit armed robberies; isn't it a fact?

24 A I didn't commit any armed robberies when I got out of
25 jail.

1 Q What about the Trans Armored car depot robbery, you
2 recall that one?

3 A I wasn't on federal parole when that was planned.

4 Q What was the take on that one, \$400,000?

5 A I think it was three and a half million.

6 Q Two and a half million dollars worth of cash (sic)?

7 A Yes.

8 Q A big score?

9 A Yes, I got swindled out of it.

10 Q The armored car robbery jobs are very lucrative, correct?

11 A I didn't commit that robbery.

12 Q You also organized and planned a robbery of another Trans
13 Armored car robbery with Boccia, Kevin Antinucci and Kevin
14 Bruno?

15 A That's the same robbery. I didn't do the robbery. They
16 did it behind my back. Then they ran to Charles to get
17 protection.

18 Q Do you recall saying when you found out you got swindled
19 that Boccia deserved to be killed?

20 A Yes, I do.

21 Q In fact he got killed, didn't he?

22 A Yes, he did.

23 Q Made you feel good he got killed?

24 A Didn't matter to me. I didn't kill him.

25 Q You did another armored car robbery with Andrew

1 Buonicountri?

2 A No, I never did an armored car robbery with Andrew
3 Buonicountri.

4 Q No?

5 A No.

6 Q In a robbery that took place at JFK Airport?

7 A Never, ever, did I rob a car with Andrew Buonicountri.

8 Q You talked about an armored car robbery that took place
9 again in the 1990s earlier today; do you recall?

10 A No, I do not recall.

11 Q One that took a lot of planning because the truck was
12 supposed to have three and a half million dollars worth of
13 gold bullion on it?

14 A I recall that.

15 Q You recall that one?

16 A Yes.

17 Q You went to the airport early in the morning on that one
18 to start surveillance?

19 A Yes.

20 Q You got there because you wanted to check out what the
21 traffic would be at the airport and also the surrounding
22 highways?

23 A I wanted to surveil the area to see what was going on
24 with everything, traffic, employees, who was in cars, police
25 presence. There was a lot of different factors.

1 Q You would watch when the armored car arrived. You want
2 to see the number of guards who would be there?

3 A Yes.

4 Q You want to see if a guard got out of the truck or
5 someone came from outside and met the truck?

6 A Yes.

7 Q Had you also wanted to see if there was any police
8 activity that would be normally found in that area?

9 A Yes.

10 Q And you followed this truck on its route to see where
11 else it went to see if there was a better location in which to
12 do the robbery?

13 A Yes.

14 Q Checked out the check cashing location you mentioned?

15 A Yes.

16 Q You followed this car to LaGuardia Airport?

17 A Yes.

18 Q In fact, you followed this car as far as Rhode Island?

19 A Yes, I did.

20 Q And you said it was months of planning for this robbery?

21 A Yes.

22 (Continued on next page)

23

24

25

1 BY MR. FARBER:

2 Q And is it fair to state that you ultimately came to a
3 conclusion that La Guardia was going to be the best location
4 for this robbery?

5 A Yes.

6 Q And then one day prior to the robbery date, you say
7 you're at La Guardia Airport and you see Charles is drunk?

8 A Yes.

9 Q And you just said, that's it, I don't want any part of
10 it?

11 A I don't operate like that.

12 Q All those months of planning and you just said that's it?

13 A That's it. It was their score. They want to show up
14 like that, I got nothing to do with it.

15 Q You walked away from three and a half million dollars
16 worth of gold bullion with no compunction?

17 A Yes, I did.

18 Q You said that you eventually learned that a robbery at
19 the airport had happened and a guard was killed?

20 A Yes.

21 Q And it made you feel sick?

22 A Yes.

23 Q Because you said that's not the right way to do a
24 robbery, you don't kill the guard?

25 A No, you don't kill the guard.

1 Q You did say just earlier that when you did your armored
2 car robberies you were always armed?

3 A Yes.

4 Q And you were are armed with a loaded handgun?

5 A Yes.

6 Q That wasn't just for show, was it, sir?

7 A That was for fear tactic.

8 Q You were prepared to use your gun if necessary, that's
9 why you carried it be?

10 A I would have used it if I had to. Thank God I didn't
11 have to.

12 Q In the 1990s you mentioned about robbing someone named
13 Steve Cohen?

14 A Yes.

15 Q And this was all over some sort of dispute between a guy
16 named Carlos who stole jewelry from Ricky DeMartino --
17 DiBernardo, your ex-wife's brother?

18 A Yes.

19 Q And that was at Great Bear in Great Neck?

20 A Yes.

21 Q He showed up there at the Great Bear?

22 A Steve Cohen and Carlos, yes, they did.

23 Q And you were armed with a shotgun?

24 A Yes, I was.

25 Q And you tied them up with bungee cords?

1 A Yes, I did.

2 Q And you stole their cocaine?

3 A Yes, I did.

4 Q And you asked Val Nucci to assist in a kidnapping in
5 January of 1997, do you recall that?

6 A Yes, I did.

7 Q And this was a person who was abducted at gunpoint from a
8 restaurant?

9 A Yes.

10 Q He was restrained, duct-taped and thrown in the back of a
11 van?

12 A Yes. That's the crime I pled guilty to in Florida on
13 that Ricco case.

14 Q There was also a scheme to rob a shipment of gold from
15 JRS Trucking. Do you recall that?

16 A I don't recall that.

17 Q You learned of the shipment --

18 A I don't think I could have got involved with robbing
19 anything from JRS Trucking. That was with the Luchese crime
20 family.

21 Q Didn't you learn of the shipment from Joey Lampasoma?

22 A I might have learned about a gold depot.

23 Q A gold depot?

24 A That was in Connecticut somewhere through JRS, but we
25 weren't going to rob JRS's shipment of gold.

1 Q But you were going to rob the depot?

2 A Yes.

3 Q After it got off the truck?

4 A We were going to rob the depot.

5 Q And you were also --

6 A If possible, but it turned out that it was too heavily
7 secured.

8 Q If it wasn't you would have?

9 A I would have did it. I mean, you know, I'm not saying I
10 wouldn't.

11 Q And you would have -- you wanted to rob an ATM machine at
12 Waldbaum's at one point?

13 A An ATM machine?

14 Q Yes, getting a little desperate, wanted to knock off a
15 machine real quick?

16 A An ATM machine. No, I don't think I would have robbed an
17 ATM machine.

18 Q What about Eric Fessler, a real estate agent and mortgage
19 broker, remember him?

20 A Yes.

21 Q And this was a person that had a dispute with your friend
22 JJ Gurino?

23 A Yes.

24 Q And Gurino had wanted him to help him with some financial
25 transaction and he refused?

1 A Yes.

2 Q And you wanted to help out your friend JJ, correct?

3 A Yes.

4 Q So you had to come up with a plan. So you had a plan to
5 have Joey Masatona, Mike Malone, and Patsy Andriano attack
6 him?

7 A Yes.

8 Q But you lied to your friend and you told him that Fessler
9 carried between 60,000 and \$90,000 in a briefcase when he
10 leaves work. Do you recall that?

11 A Sometimes he had that amount of money on him. I don't
12 remember lying to them. I remember telling them that they
13 might find the money there, they might not.

14 Q It wasn't true, he had no money in his briefcase?

15 A Eric Fessler had big money.

16 Q And you said you thought he carried between 60 and
17 \$90,000 cash with him on a regular basis in his briefcase?

18 A (No response.)

19 Q On the day of the crime after these guys scouted out
20 Mr. Fessler, they attack when he's with his girlfriend Nadine,
21 do you remember that?

22 A Yes..

23 Q He was able to get away?

24 A Yes.

25 Q So your friends stole his girlfriend's black Mercedes and

1 a briefcase containing papers?

2 A Yes.

3 Q That's all that they got?

4 A Yes.

5 Q And you mentioned something earlier today also about a
6 robbery of a jeweler, one of your employees, Steve Cohen, knew
7 about a jeweler who conducted business with another jeweler in
8 Dix Hills?

9 A Yes.

10 Q And you enlisted Marty Bosshart, Kevin Antonucci, and Guy
11 Reichart to help?

12 A No. They came to me with the score, Steve Cohen, Marty
13 Bosshart, Guy Reichart, and Kevin Antonucci.

14 Q And you all went to Dix Hills to rob this guy?

15 A Yes.

16 Q And you pushed your way into his home?

17 A No, I didn't go into the home.

18 Q Was everyone in the home tied up?

19 A I was on crutches at the time. I mean, I don't know what
20 they did once they he got in the home. I know that we went
21 there and we did the score and we were successful, nobody got
22 hurt and we left.

23 Q This is a working guy, a working stiff, as you described
24 him?

25 A Yes.

1 Q And you stole \$800,000 worth of jewelry that he had?

2 A Yes.

3 Q You probably wiped him out financially?

4 A Yes.

5 Q Didn't care?

6 A No.

7 Q And with regard to Eric Fessler, that was just a working
8 stiff also?

9 A Eric Fessler was a semi legitimate guy who dabbled with
10 organized crime figures; liar, swindler, cheater -- he wasn't
11 an upstanding American citizen. He went to jail. Did time.
12 He was just --

13 Q That made that robbery okay?

14 A It didn't make it okay, but Eric Fessler wasn't what you
15 just described as an upstanding American citizen.

16 Q Did I say that or did I say working stiff?

17 A A working stiff. A working stiff is an upstanding
18 American citizen today.

19 Q You weren't a working stiff, sir, were you?

20 A No.

21 Q And you robbed drug dealers, correct?

22 A Yes, I did.

23 Q You robbed one drug dealer in the vicinity of
24 Pennsylvania and Glenwood Avenues in Brooklyn?

25 A Yes.

1 Q You did that with Billy Casso?

2 A Yes. That was on Glenmore Avenue.

3 Q And you forced the drug dealer in the basement of the
4 restaurant and stole heroin from him?

5 A Yes, I did.

6 Q And you used the heroin for your own personal needs?

7 A Yes.

8 Q And it lasted about three weeks?

9 A Yes.

10 Q At the time of your arrest for the big marijuana case
11 here in the Eastern District --

12 A Yes.

13 Q -- that was a major operation; correct?

14 A Yes.

15 Q In fact, it was described as a large scale marijuana
16 cultivation and distribution organization that had been
17 operating since 1997. Fair representation?

18 A I don't know how it was described. I mean, it was a big
19 operation.

20 Q Employed 15 individuals?

21 A It employed a lot of people, yes, it did.

22 Q Grossed nearly \$12 million?

23 A I couldn't put a number amount on it, but there was a lot
24 of money involved.

25 Q Grew hydroponic marijuana at three indoor locations?

1 A Yes.

2 Q One of the cultivation operations was located at a
3 warehouse at 1041 East 46th Street in Brooklyn?

4 A Yes.

5 Q The other at 1510-1514 Schenectady Avenue in Brooklyn?

6 A Yes.

7 Q That second location was opposite a public elementary
8 school, PS 109.

9 A They both backed up to each other, the both buildings.
10 And they built a school recently right across the street from
11 the one on East 46th Street.

12 Q So it didn't stop you?

13 A No, it did not.

14 Q You wouldn't kill across the street from a church but you
15 would deal drugs across the street from a school; different
16 standard?

17 A Drugs weren't dealt out of the location. We just grew it
18 there. You don't grow it and deal it out of the same
19 location. I mean that's --

20 Q Isn't it a fact that drug operations bring violence of
21 all types?

22 A That's a funny thing you say that because in the
23 marijuana business --

24 Q That's not asking for a narrative.

25 A I have never had a violence problem. That's why I was in

1 that business.

2 Q You never had a violence problem --

3 A In the marijuana business.

4 Q You robbed drug dealers?

5 A Yes, I did.

6 Q And isn't it a fact that drug dealers get robbed all the
7 time by rival drug dealers?

8 A I'm saying that there was no violent problems in that
9 marijuana business.

10 Q This was a secret location?

11 A Yes, it was.

12 Q And if the secret got out, fair to say, someone might try
13 to steal the marijuana?

14 A I don't know what someone might do, but I mean --

15 Q At each of your drug locations you kept guns to protect
16 your operations; correct?

17 A There was a gun there, yes, there was.

18 Q And there was a school across the street?

19 A Yes, there was.

20 Q Now, inside these locations there were hidden rooms where
21 the plants, the marijuana plants were actually grown with heat
22 lamps?

23 A They were grown with grow lights.

24 Q And, in fact, your entire operation was powered by
25 \$800,000 in electricity and gas that was stolen from the

1 public utilities through illegal connections and you had set
2 up a complex exhaust system to flush out the scent of
3 marijuana?

4 A Yes.

5 Q You designed this all yourself?

6 A Couple of different people helped me design it.

7 Q And so not only were you growing the marijuana, you stole
8 \$800,000 worth of utilities from the public?

9 A Yes, I did.

10 Q And then there was another operation in the basement of
11 one of your co-conspirator's house, Lessamis?

12 A Yes.

13 Q And there was also an operation at 1755 Dingle Hill Road
14 in Andes, New York?

15 A Yes.

16 Q So this was a pretty vast operation?

17 A Yes.

18 Q And hydroponic marijuana is probably the most valuable
19 type of marijuana on the street?

20 A Yes, it is.

21 Q It's potent?

22 A Yes.

23 Q Much desired?

24 A Yes.

25 Q And you made a lot of money from this?

1 A Yes.

2 Q You were a big fish when it came to the marijuana
3 distribution business in New York City at the time of your
4 arrest on that case?

5 A Was I big fish? I don't know if you would consider me a
6 big fish. I mean, that was a lucrative business, I mean -- at
7 the rate marijuana is absorbed in New York --

8 Q You made a lot of money from that?

9 A Yes, I did.

10 Q And you were smart enough to know that you needed to hide
11 the money; correct?

12 A Yes.

13 Q And you started creating fake companies?

14 A I laundered the money through companies, yes, I did.

15 Q How many companies did you create?

16 A There was a couple of different corporations.

17 Q These corporations had no legitimate business other than
18 to launder your drug proceeds?

19 A Well, it was commingled with legitimate money, illegal
20 money, it was just, you know.

21 Q These businesses were under your exclusive control?

22 A Yes, they were.

23 Q And this way if you got arrested you were hoping the
24 money would be hidden from law enforcement?

25 A Well, the main thing I was looking to do was to clean the

1 money up and pay tax on it so I could use it in legitimate
2 capacities.

3 Q You wanted to pay your taxes?

4 A I wanted to get the money legitimized so I could use it
5 in legitimate ways.

6 Q When you were walking along the street, fair to say you
7 carried with you a significant sum of cash?

8 A Yes.

9 Q And you were known as a big spender?

10 A Yes.

11 Q And you would throw money around to impress people left
12 and right?

13 A I spent money. I mean, I wouldn't go into somebody's
14 restaurant and sit down and not pay the bill. I would pay the
15 bill and leave a good tip anyplace I went.

16 Q You were a big tipper?

17 A Yes, I did.

18 Q You dressed really nice?

19 A When I dressed I dressed pretty good.

20 Q You like to give gifts to your wives, girlfriends, what
21 have you?

22 A Yes, I did.

23 Q Spread it around with friends?

24 A I spent money.

25 Q You weren't worried about making any of that money

1 legitimate before you spent it?

2 A I wasn't using it in a capacity where I was going to
3 further a business deal where it could be traced. I was just
4 spending.

5 Q You didn't think you were bringing any attention upon
6 yourself from all that surveillance you're talking about by
7 just throwing large sums of money around?

8 A I mean, I didn't throw money around like, you know, made
9 a big splash. I went out and ate dinner and stuff like that.

10 Q Do you remember saying yesterday that you were disgusted
11 with John Gotti because he brought all this attention upon
12 himself and the family by being so flamboyant?

13 A I mean you couldn't compare what I did to what John was
14 doing.

15 Q You weren't the boss of the family?

16 A I mean, let's not go there. There's really no
17 comparison.

18 Q You were not the boss of the Gambino family?

19 A No comparison between me and John.

20 Q You admired him at one point?

21 A Yes, I did.

22 Q You told us at the end of the government's direct case
23 that when you were offered to be made a member, you raised
24 your glass of champagne to toast John Gotti; here, here to
25 John Gotti?

1 A Yes, I did.

2 Q You wanted to be like him to the best that you could?

3 A You know, I liked John. I mean, I'm not going to say I
4 didn't like him, but I didn't like what he did. I mean, he
5 got out of hand. I respected him.

6 Q Prior to your big marijuana operation in the warehouses,
7 you had other marijuana operations with Lenny Palone and Gus
8 Fakiris?

9 A I had the same marijuana operation as we just spoke
10 about. Lenny Palone was my correct partner and Gus Fakiris
11 was a buyer.

12 Q You started smaller and you guys eventually built up to
13 where you were with the warehouses?

14 A Yes. In the same operation.

15 Q How many years were you working with these guys in
16 marijuana operations?

17 A Me and Lenny started working together in the early 1990s.
18 Gus Fakiris came on board in the early to mid-2000s.

19 Q You tried to grow marijuana also as a farce or what have
20 you beyond the Prima Pasta Restaurant?

21 A I gave them 20 plants. They put it in the ground. I
22 showed them how to grow.

23 Q And they actually got arrested because of that?

24 A Yes, they did.

25 Q You didn't get arrested because of that?

1 A No, I didn't.

2 Q And then in 2004 you said you went down to Florida cause
3 you wanted to kill the guy who killed your friend JJ Gurino?

4 A Well, it didn't start in 2004. JJ was killed in October
5 of 2003. After JJ was buried is when I started looking for
6 Rossario Liotta.

7 Q And when you were down in Florida you found out that the
8 authorities were looking for you?

9 A In June of 2004 I was notified that the federal
10 authorities wanted me to surrender in New York.

11 Q And you didn't, you didn't come in when you are were
12 told?

13 A I surrendered a week later. My friends told me the best
14 thing to do is surrender and that's what I did. I agreed.
15 Junior Ruggiero and a bunch of other guys got together and we
16 all made the decision that I would surrender in Florida.

17 Q And the reason you took a week off was because you wanted
18 to try to hide some of your money?

19 A Well, I wanted to get my affairs in order. I just closed
20 on a house in Florida.

21 Q You wanted to see if you could also fulfill your desire
22 to kill your friend's killer?

23 A Not really.

24 Q If you knew where he was you would have killed him? You
25 told us that on direct examination.

1 A I don't know. I had too many things on my mind at the
2 time. It wasn't like, you know, the first impulse. I was now
3 worried about what was going to happen with this case I had in
4 Florida.

5 Q Is it fair to say, sir, you continued to commit crime
6 literally up to the time of your arrest in 2004?

7 A I committed crimes while I was in FDC Miami still. The
8 pot was still growing in the warehouses in Brooklyn. It
9 didn't get knocked off until February of '05. I mean, I was
10 still growing the marijuana.

11 Q Sir, turning to more of your personal life. You
12 indicated you had been married in the past?

13 A Yes.

14 Q You were married four times?

15 A Yes.

16 Q You have five children?

17 A Yes, I do.

18 Q And out of that five, three of them don't even talk to
19 you?

20 A Yes.

21 Q And your three prior wives, Gina Lafrate, Dawn DeMario
22 and Cindi DiBernardo all accused you of beating them.

23 A I hit them.

24 Q You hit Gina Lafrate?

25 A I pushed her down on the coach.

1 Q She was injured?

2 A No.

3 Q She didn't have bruises about her face?

4 A No.

5 Q What about Dawn?

6 A Dawn I pushed down on the ground while she was pregnant.

7 Q While she was pregnant?

8 A Yes.

9 Q And what caused you to do that?

10 A The night the altercation between me and her brother
11 Carl, and I hit her mother that night and I was just --

12 Q You were just out of control?

13 A I was out of control.

14 Q You took your pregnant wife, pregnant with your child,
15 and threw her on the ground?

16 A I didn't throw her. I pushed her and she landed on the
17 staircase and that was it.

18 Q What about --

19 A I walked out of the house.

20 Q What about Cindi DiBernardo?

21 A Cindi was a lot tougher than me.

22 Q Tougher because she fought back; correct?

23 A I just tried to restrain Cindi.

24 Q She ran you over with her -- your car?

25 A Cindi ran me over by accident with her car.

1 Q That was an accident?

2 A Yes.

3 Q Do you remember beating her up at your place of
4 employment -- you had a padded room that was sort of sound
5 proof?

6 A I beat her up in a padded -- no, I don't remember that.

7 Q You don't remember?

8 A No.

9 Q Do you think she just ran you over by accident?

10 A She was reaching over to pull the electric door lock that
11 didn't work on the right-hand side of the car as I was walking
12 in the front of the car, and the wheel was turned towards me
13 and she hit the gas from the brake and it ran me over.

14 Q So as she's reaching over --

15 A This is the excuse she gave me.

16 Q Her foot stepped on the accelerator, the wheels turned in
17 your direction and you got run over?

18 A No, no.

19 Q That's an accident?

20 A No. I said the wheel was pointing to the right of the
21 car. As she leaned over to open the right hand lock on the
22 door, her foot slipped off the brake and hit the gas and the
23 car ran me over.

24 Q You forgave her?

25 A I married her.

1 Q And you divorced her?

2 A Yes, I did.

3 Q Were you divorced after she ran you over?

4 A Excuse me?

5 Q You're divorced now?

6 A Yes.

7 Q You ended up in the hospital?

8 A Yes, I did.

9 Q You were injured?

10 A Yes. And Charles took the credit for it.

11 Q And you were in a lot of pain?

12 A Yes.

13 Q And you say that you started using pain medication?

14 A Yes, I did.

15 Q And from that pain medication you graduated to heroin
16 addiction?

17 A Yes, I used heroin.

18 Q The hospital gave you heroin because the pain medication
19 was not strong enough?

20 A Excuse me?

21 Q The hospital is the one who gave you the heroin?

22 A No. I went to the streets of East New York to get the
23 heroin from the drug dealers.

24 Q Is it fair to say that you already had a narcotics
25 addiction problem, you turned to the streets for furthering

1 it?

2 A I had a narcotics addiction problem before I got run
3 over?

4 Q Yes.

5 A No. I wouldn't say that. I didn't have a problem.

6 Q Before you got --

7 A I used narcotics, I'm not saying I didn't. What I'm
8 saying is I didn't have a narcotics problem. I didn't have a
9 habit on heroin or anything like that.

10 Q Did you use cocaine in the past?

11 A I might have snorted cocaine once in a blue moon. I
12 didn't like to use cocaine.

13 Q Angel dust?

14 A No.

15 Q Crystal?

16 A What was that?

17 Q Crystal meth?

18 A No. I never used crystal meth in those years.

19 Q What types of drugs were you using?

20 A I used marijuana. I might have used maybe alcohol,
21 but -- I wasn't using any hard drugs.

22 Q You didn't have a problem?

23 A Not in the early nineties, no. I was just getting off
24 parole so to have like a drug habit and problem and to beat
25 the parole people is kind of hard.

1 I just got off parole in March of 1993 and I got run
2 over in June of '93. So I didn't have a drug problem. Any
3 drug problem started after I got run over.

4 THE COURT: When you reach an appropriate point.

5 MR. FARBER: Yes, Judge. I have a few more
6 questions on this area and I can stop for the night.

7 Q Your heroin addiction lasted for about five years?

8 A I would say that my heroin addiction lasted from maybe
9 '94 to '97.

10 Q You were spending close to \$500 a day on heroin?

11 A Yes.

12 Q That was a pretty bad habit?

13 A Yes.

14 MR. FARBER: Judge, I can stop here.

15 THE COURT: Good night everyone. 10 o'clock
16 tomorrow for the jury.

17 (Jury leaves.)

18 THE COURT: Good night.

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